



# “BEING OURSELVES IS TOO DANGEROUS”

DIGITAL VIOLENCE AND THE SILENCING OF  
WOMEN AND LGBTI ACTIVISTS IN THAILAND

AMNESTY  
INTERNATIONAL



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# Glossary

<b>CAT</b>	Acronym for the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
<b>CCA</b>	Acronym for Thailand's Computer Crimes Act.
<b>CDUGD</b>	Acronym for Thailand's Committee on the Determination of the Unfair Gender Discrimination. The CDUGD was established under the Gender Equality Act.
<b>CEDAW</b>	Acronym for the Convention on the Elimination of All Forms of Discrimination against Women
<b>CISGENDER</b>	Individuals whose gender identity accords with conventional expectations based on the physical sex they were assigned at birth.
<b>CLAVC</b>	Acronym for the Center of Legal Assistance for Victims of Cyberbullying. The CLAVC is one of the state-aligned groups involved in strengthening the Thai state's digital repression.
<b>CRC</b>	Acronym for the Cybersecurity Regulating Committee set up under Thailand's Cybersecurity Act.
<b>CSA</b>	Acronym for Thailand's Cybersecurity Act.
<b>DWAFD</b>	Acronym for the Department of Women's Affairs and Family Development under Thailand's Ministry of Social Development and Human Security.
<b>DOXING</b>	Act of revealing personal or identifying documents or details about someone online without their consent, typically with malicious intent.
<b>FFP</b>	Acronym for the now-defunct Future Forward Party.
<b>GENDER EXPRESSION</b>	Public expression or presentation of one's gender identity.
<b>GENDER IDENTITY</b>	Each person's deeply felt internal and individual sense of gender, which may or may not correspond with the sex assigned at birth. An individual's gender identity may be that of a man, woman, or outside the binary categories of man and woman. It may also be more than one gender, fluid across genders or no gender at all.
<b>GENDER NON-CONFORMING</b>	Broad term used in this research for human rights defenders who identify as part of the LGBTI community but were not comfortable with any specific categories to describe their sexual orientation, gender identity and/or expression and sex characteristics.

## Glossary (Continued)

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<b>HRD</b>	<p>A human rights defender (HRD) is a person who, individually or in association with others, acts to defend and/or promote human rights at the local, national, regional or international levels.</p> <p>Amnesty International does not consider a person to be a HRD if they resort to or advocate hatred, discrimination or violence, or if they deny the universality of human rights (all human rights for all) or take action that seeks to undermine the human rights of others.</p>
<b>ICCPR</b>	<p>Acronym for the International Covenant on Civil and Political Rights.</p>
<b>IHRL</b>	<p>Acronym for international human rights law.</p>
<b>IO</b>	<p>Information operation (IO) is the term used widely in Thailand to describe the state-organized online campaign that aims to disseminate pro-establishment narratives and attack those perceived to be dissidents.</p> <p>The Internal Security Operations Command, together with the Royal Thai Army (RTA), continues to have a prominent role in carrying out IOs in the online space. Leaked documents from the Ministry of Defence in 2020 showed that the RTA allocated budgets for running cyber units to influence and manipulate information on social media platforms amid the heightened political tension and the rise of the pro-democracy youth-led movement at the time.<sup>1</sup></p>
<b>ISOC</b>	<p>Acronym for Thailand’s Internal Security Operations Command.</p> <p>The Internal Security Operations Command is one of the most influential security agencies in Thailand. Technically, it is a civilian agency regulated under the Prime Minister’s office. However, in reality, it functions as the Thai military’s ‘socio-political arm’ and is dominated by military officials.</p>
<b>INTERSEX</b>	<p>Persons with intersex variations have physical, hormonal and/or chromosomal characteristics that do not fit neatly into either male or female and have variations of sex characteristics. These variations are diverse; for instance, some may have genitalia outside the standard norms of male and female bodies, others have female reproductive organs but have XY (male) chromosomes, or male reproductive organs and XX (female) chromosomes. These characteristics might be present at birth or become more apparent during or after puberty.</p>
<b>LÈSE-MAJESTÉ</b>	<p>A crime under Article 112 of Thailand’s Criminal Code which prohibits defaming, insulting or threatening the King, the Queen, the Heir-apparent or the Regent. The offence is punishable by imprisonment from three to 15 years.</p>

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1 Thai Rath Plus, ‘มหากาพย์’ไอโอ’ เมื่อถามประชาชน ถูกใช้สื่อต่างประเทศ ?, <https://plus.thairath.co.th/topic/politics&society/100402> (accessed on 2 September 2021).

## Glossary (Continued)

<b>LGBTI</b>	<p>The term LGBTI refers to a broad category of people, including those who identify as lesbian, gay, bisexual, transgender or intersex, although Amnesty International recognizes that there are many alternative terms around the world that are used by people to define their sexual orientation or gender identity.</p> <p>This broad category is often translated into the Thai context and used interchangeably with the term “people with diverse gender”.</p>
<b>META</b>	Parent company of Facebook.
<b>MDES</b>	Acronym for Thailand’s Ministry of Digital Economy and Society.
<b>MSDHS</b>	Acronym for Thailand’s Ministry of Social Development and Human Security.
<b>NCPO</b>	Acronym for the National Council for Peace and Order.
<b>NIA</b>	Acronym for the Thailand’s National Intelligence Act.
<b>NON-BINARY</b>	<p>Non-binary people have a gender identity that exists outside the categories of man and woman. It is an umbrella term for various gender identities that lie outside of the gender binary. While some non-binary people may identify as trans, others may not.</p>
<b>NSB</b>	Acronym for the Narcotics Suppression Bureau under the Royal Thai Police.
<b>ONLINE HARASSMENT</b>	<p>The use of online platforms to intimidate, threaten, cause distress and silence an individual or group. Online harassment can manifest in various different ways, including through use of hateful and abusive speech, targeted smear campaigns, doxing and making threats of violence.</p>
<b>PDPA</b>	Acronym for Thailand’s Personal Data Protection Act.
<b>PEGASUS (SPYWARE)</b>	A type of highly invasive spyware developed by Israeli surveillance firm NSO Group, which enables full and unrestricted access to a device.
<b>QUEER</b>	<p>Queer people reject fixed categories of gender, sexual orientation, gender identity and/or expression and sex characteristics and embrace their fluidity. The term shares a similar meaning to “gender non-conforming”, but it is not widely used in Thailand.</p> <p>This research uses “queer” only in cases where the HRDs directly identified themselves with this term.</p>
<b>RCO</b>	Acronym for the Rubbish Collection Organization, one of the state-aligned groups involved in strengthening the Thai state’s digital repression.
<b>RCS (SPYWARE)</b>	Acronym for the Remote-Control System, a type of spyware developed by the now dissolved Italian surveillance technology company Hacking Team.
<b>RTA</b>	Acronym for the Royal Thai Army.

## Glossary (Continued)

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<b>RTP</b>	Acronym for the Royal Thai Police.
<b>SEX CHARACTERISTICS</b>	Each person's genetic, chromosomal, anatomic and hormonal variations related to their sex. These characteristics are not always binary; that is, they do not always fall under the categories of 'male' or 'female'.
<b>SEXUAL ORIENTATION</b>	A person's capacity for profound emotional, affectionate and sexual attraction to, and intimate and sexual relations with, other people. People experience sexual and romantic attraction differently. You can be attracted to people of a different gender, or the same gender as you. Some people are asexual, meaning they experience little to no sexual attraction.
<b>SOGIESC</b>	Acronym for sexual orientation, gender identity and/or expression and sex characteristics. Refer to specific definitions of each term in this glossary.
<b>SBP</b>	Acronym for the southern border provinces of Thailand.  The SBPs consist of the provinces of Yala, Pattani and Narathiwat, and four districts of Songkhla province (Saba Yoi, Tepha, Chana and Natawee) located next to northern Malaysia. Historically, the region is known as "Patani" with one 'T', which is not to be confused with "Pattani," the official name of a province in this region as recognized by the Thai government. The majority of the local population is Malay Muslims, who are considered to be a minority in Buddhist-majority Thailand.
<b>SPYWARE</b>	Spyware is software which enables an operator to gain covert access to information from a target computer system or device.
<b>TARGETED DIGITAL SURVEILLANCE</b>	A practice of monitoring or spying on specific persons and/or organizations through digital technology to interfere with their private data.
<b>TfGBV</b>	Acronym for the term "technology-facilitated gender-based violence".  TfGBV refers to any act of violence, or threats thereof, perpetrated by one or more individuals that is committed, assisted, aggravated and amplified in part or fully by the use of information and communication technologies or digital media, that disproportionately impacts women, girls and other people based on their real and/or perceived sexual orientation, gender identity and/or expression, causing physical, psychological, economic and sexual harm. <sup>2</sup> Gender-based violence, including TfGBV, exists in a continuum between physical and digital spaces.

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<sup>2</sup> Amnesty International recognizes that United Nations mechanisms and feminist scholars and activists continue to develop definitions of this phenomenon and seek to embrace and understand the different elements of each proposal. Amnesty International has adopted this understanding for this research, while recognizing the ongoing process of defining the term. See, for example: UN Women, "Technology-facilitated violence against women: Taking stock of evidence and data collection", March 2023, <https://www.unwomen.org/en/digital-library/publications/2023/04/technology-facilitated-violence-against-women-taking-stock-of-evidence-and-data-collection>



## Glossary (Continued)

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<b>TLHR</b>	Acronym for Thai Lawyers for Human Rights, a human rights organization providing legal support for human rights defenders and activists facing charges for exercising their freedom of expression and peaceful assembly.
<b>TRANSGENDER (TRANS)</b>	Individuals who have a gender identity that is different from typical expectations of the gender they were assigned at birth. Some trans people might decide to get legal gender recognition or undergo gender affirmative interventions to help them feel more confident or comfortable living as their true gender. Not all transgender people identify as a man or a woman. Some identify as more than one gender or no gender at all and might use terms like non-binary, agender, genderqueer or gender fluid to describe their gender identity.
<b>UDHR</b>	Acronym for the Universal Declaration of Human Rights.
<b>UFTD</b>	Acronym for the United Front of Thammasat and Demonstration, one of the protest groups led by students from Thammasat University.
<b>WOMEN</b>	<p>In this report, ‘women’ is an umbrella term used to refer to both cisgender and transgender women unless there is specific reason to disaggregate the information further.</p> <p>While this research uses the term “women and LGBTI people” throughout the report, Amnesty International recognizes that these two categories are not mutually exclusive.</p>
<b>YOUTH-LED PRO-DEMOCRACY MOVEMENT</b>	<p>The youth-led pro-democracy movement refers to a nationwide protest movement in Thailand that started in 2020 under the leadership of young university and high-school students, especially women and LGBTI people. Under this movement, protesters demanded political reforms towards democratization for Thailand and tackled the previously taboo issue related to the monarchy.</p> <p>The term may be used interchangeably with “the protest movement”.</p>

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# 1. EXECUTIVE SUMMARY

***Content warning: This report contains descriptions of violence and abuse against women and LGBTI people.***

In November 2021, Niraphorn Onnkhaow, a 22-year-old university student and one of the organizers of the youth-led pro-democracy protest group United Front of Thammasat and Demonstration (UFTD), received an e-mail from Apple alerting her that “[s]tate-sponsored attackers may be targeting your iPhone”. A few months later, she found out through civil society-led forensic research that she was among 35 human rights defenders (HRDs), activists, academics and artists, including 15 women, targeted with Pegasus, a highly invasive spyware developed by the Israeli cyber intelligence company NSO Group. Her device was infected 14 times in 2021 – the highest number of infections among all the targeted individuals.

The spyware infections came as a shock for Niraphorn Onnkhaow, who had no public-facing role in her activism. “I was extremely shocked and terrified when I learned that I was targeted. I’ve already tried to mitigate my risks by only working on back-end operations... Keeping a low profile could not protect me,” she told Amnesty International. Only a few months before finding out about the spyware infection, a Facebook page had posted her personal information online to expose her role in the UFTD, which was not public information at that time.

As a result of these digital attacks, she decided to end her role in the protest movement due to fears that her private data could be weaponized against her if she continued being involved in protests. “As a woman, having my privacy invaded is frightening... If I have private photos on my phone, they could be leaked to smear my reputation and hurt me to the extent that I’d have to stop my activism. The impacts of such blackmailing won’t be the same for men because women tend to be penalized more for this type of scandal in the Thai society,” she explained to Amnesty International.

Niraphorn Onnkhaow’s experience is emblematic of the targeted use of technology-facilitated gender-based violence (TfGBV) designed to silence women and LGBTI HRDs in Thailand. TfGBV is any act of violence, or threats thereof, perpetrated by one or more individuals that is committed, assisted, aggravated and amplified in part or fully by the use of information and communication technologies or digital media, that disproportionately impacts women, girls and other people based on their real and/or perceived sexual orientation, gender identity and/or expression, causing physical, psychological, economic and sexual harm. Gender-based violence exists in a continuum between physical and digital spaces.

Amid intensifying state repression of the offline civic space after the Thai military staged a coup and took power in May 2014, and the emergence of the youth-led pro-democracy movement in 2020, digital technology has become a vital tool for women and LGBTI people to carry out activism and raise awareness about human rights. Nonetheless, the digital space is not always safe for women and LGBTI HRDs, exposing them to gender-based violence.

Thailand has long positioned itself as a champion of gender equality. The Tourism Authority of Thailand’s campaign “Go Thai, Be Free” presents Thailand as the “most LGBTIQ / LGBTI+ welcoming country in Asia” and states that: “In Thailand, we believe diversity is amazing”. In 2022, Thailand hosted the Global Summit of Women where the former Prime Minister, Prayut Chan-o-cha, pledged to promote gender equality and empower women. In 2023 a new government similarly expressed its commitment to guarantee “gender equality” and pledged to pass laws to legalize same-sex marriage, decriminalize sex work and allow for legal gender recognition with an ambitious goal for Thailand to become the host of World Pride in 2028.

AMNESTY INTERNATIONAL CONDUCTED **GROUP AND INDIVIDUAL INTERVIEWS WITH 40 HRDs, INCLUDING**

**14 CISGENDER HETEROSEXUAL WOMEN AND 26 LGBTI PEOPLE**



This report, however, presents a stark contrast between the government's official commitment to gender equality and the lived reality of women and LGBTI HRDs who have had to suffer from TfGBV as a result of their activism. As part of Amnesty International's global campaign Protect the Protest, the report provides an in-depth analysis of different forms of TfGBV and its harmful impact on women and LGBTI HRDs. Ultimately, TfGBV in Thailand has resulted in a chilling effect, deterring women and LGBTI people from fully expressing themselves or their opinions and engaging in activism. As the testimonies in this report show, TfGBV and offline violence against women and LGBTI people function in an intricate interplay where they often mirror, exacerbate and amplify each other.

Amnesty International conducted group and individual interviews with 40 HRDs, including 14 cisgender heterosexual women and 26 LGBTI people. At least 25 of the interviewees were youths under 25 years old at the time they experienced TfGBV including two HRDs who were under 18. Many interviewees were also Malay Muslims from the country's southern border provinces (SBPs), where negative attitudes towards women and LGBTI people remain prevalent.

To corroborate information received from the interviewees, Amnesty International carried out extensive desk research through analysis of content on social media platforms. This research method was selected to avoid asking interviewees to revisit past incidents of TfGBV that can result in re-traumatization.

## HUMAN RIGHTS LEGAL FRAMEWORK

TfGBV and its discriminatory effects on women and LGBTI HRDs can have impacts on a range of human rights guaranteed under international human rights law (IHRL). This report is focused on the rights to freedom from gender-based violence, freedom of expression, freedom of peaceful assembly, freedom of association, privacy and an effective remedy, all protected by several treaties and declarations including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), among others. Thailand has ratified these treaties and thus must comply with their obligations, including to respect, protect and fulfil these rights.

The Thai Constitution also guarantees various human rights, including the rights to non-discrimination, privacy, and freedom of expression and peaceful assembly. Despite the existing constitutional provisions, Thailand's domestic law lacks a robust framework for protecting women and LGBTI people from TfGBV in line with IHRL. While Thailand has adopted a law on combating gender-based discrimination, its application includes exemptions for discrimination committed in the name of religion or national security. In addition, the Thai government has proactively used existing cyber laws to prosecute online expressions by critics and provides no human rights-compliant legal safeguards for preventing the violation of the right to privacy.

Companies also have a responsibility to respect human rights wherever they operate in the world, as established by the UN Guiding Principles on Business and Human Rights (the UN Guiding Principles). A key part in fulfilling that responsibility is the adequate implementation of ongoing human rights due

diligence, based on identifying, preventing, mitigating and accounting for the impact that the business has or may have on human rights. Where a company identifies through due diligence that it may cause or contribute to human rights abuse, it must cease or prevent its contribution to the adverse impact and provide remedy to those who have suffered the harm.

## TFGBV IN THAILAND

Amnesty International found that women and LGBTI HRDs in Thailand primarily endure two forms of TfGBV: targeted digital surveillance and online harassment. In many cases, some HRDs faced more than one form of TfGBV due to their activism.

TfGBV that results from targeted digital surveillance and online harassment may be due to intentionally discriminatory targeting, or because of the discriminatory effects experienced by survivors. Its impacts illustrated in this report are influenced by existing prejudices, biases and structural barriers experienced by the women and LGBTI HRDs due to their gender, sexual orientation, gender identity and/or expression and sex characteristics (SOGIESC) and human rights activism.

Amnesty International defines targeted digital surveillance as a practice of monitoring or spying on specific persons and/or organizations through digital technology to interfere with their private data. Amnesty International's research documents two cases of digital surveillance: the use of Pegasus spyware, and targeted attacks on individual Facebook accounts.

Pegasus, a spyware developed by NSO Group, allows unlimited access to a device without permission of the owner or operator and sends the information to another unauthorized entity, leaving little to no trace, so that the owner or operator of the device has almost no information as to what data was taken and who took it. Amnesty International classifies Pegasus spyware as a form of highly invasive spyware, on the basis that it can neither be independently audited nor limited in its functionality.

Among the 35 individuals in Thailand known to have been targeted with Pegasus spyware, 15 of them are men and 15 are cisgender women (the identities of the remaining five are unknown). Amnesty International was able to conduct interviews with nine of the 15 women targeted with Pegasus. These included those directly involved in the protest movement, and women HRDs campaigning and advocating for the rights of the protesters.

Technical and circumstantial evidence has led Amnesty International to conclude that there is a strong likelihood that one or more Thai state actors, or agents acting on their behalf, were involved in the use of the spyware. Such evidence includes the Thai government's past record of targeting HRDs who were under Pegasus attacks, existing technical investigations that indicated the use of Pegasus spyware in Thailand and NSO Group's policy of selling its products exclusively to governments. This conclusion

AMNESTY INTERNATIONAL FOUND THAT

**WOMEN AND LGBTI HRDS IN THAILAND  
PRIMARILY ENDURE TWO FORMS OF  
TECHNOLOGY-FACILITATED GENDER-BASED VIOLENCE:**

**TARGETED DIGITAL SURVEILLANCE AND ONLINE HARASSMENT**



aligns with that of the National Human Rights Commission of Thailand (NHRCT), who announced on 5 April 2024 that "it cannot be denied" that a Thai government entity was responsible for the use of Pegasus spyware against the targeted individuals in Thailand. Although the NHRCT said that the evidence pointed towards use of Pegasus by the Thai government, it was unable to identify which specific Thai government entity was responsible for the targeting. In response to these allegations, Thailand's Ministry of Foreign Affairs stated to Amnesty International: "[w]ith regard to the use of Pegasus spyware, there has not been any proven evidence as to which government agency has utilized the spyware".

In addition, Amnesty International spoke with six women and LGBTI HRDs who were among 44 activists in Thailand who reported having received a notification from Meta of "government-backed or sophisticated attacker alerts" via their personal Facebook accounts' support inbox on 17 November 2022. These HRDs are vocal critics of the government and/or the monarchy. Meta's Help Center indicates that this alert could include malicious attempts to "pose as someone you know or want to connect with – like a recruiter working in your industry – to trick you into befriending and communicating with them, sharing sensitive information, downloading malicious files, or clicking on malicious links designed to steal your passwords or other information" or to "passively [research] information about you to learn more about your online and offline activity".

This research assessed that this targeted digital surveillance had a gendered impact, resulting in fear and anxiety among HRDs that the private data about their lives could be weaponized against them through online harassment or used in court to prosecute them. Patcharadanai Rawangsub, a pro-democracy activist and HRD who identifies as a gay man, explained his concerns after learning that his Facebook account might be compromised:

***"[G]oing to prison is my worst nightmare. For gay men and trans women, Thai prisons can be brutal as you will most likely be sexually harassed and assaulted and face discrimination."***

Protest leader Panusaya Sithijirawattanakul told Amnesty International that women HRDs are vulnerable to blackmail or attacks through the dissemination of their private data obtained through targeted surveillance. She said: "The effect of surveillance on women may not seem obvious to everyone at first, but women do have more to lose. Anything related to women's private lives could be picked up and used as a weapon against us to make us stop our activism."

Amnesty International also found that state and non-state actors have routinely weaponized online spaces to attack, intimidate and discredit women and LGBTI HRDs at least since the 2014 military coup. This research identified four common methods of online harassment against the HRDs: the use of hateful and abusive speech, targeted smear campaigns, doxing and threats of gendered violence.

The most common type of online harassment mentioned by almost every woman and LGBTI HRDs interviewed is the use of hateful and abusive speech. These attacks are laced with misogynistic, homophobic and transphobic language. Many instances also involved sexualized content regarded as degrading or intimidating for women and LGBTI people.

Prominent HRDs, critics and activists reported to have experienced targeted smear campaigns through online platforms on which malicious actors post almost identical texts and images at roughly the same time in a coordinated manner to amplify the online attacks against their targets. The posts heavily featured the use of hateful and abusive language filled with gendered disinformation. The HRDs believed state and state-aligned actors to be behind these attacks.

Further, Amnesty International found that malicious unidentified actors have used doxing – the act of revealing personal or identifying documents or details about someone online without their consent – against many women, girls and LGBTI activists as a tactic of public shaming and intimidation. This research revealed that the personal data of many HRDs, including their home address, criminal record, roles in the protest movement and information related to their SOGIESC have been posted on social media platforms against their will.

Lastly, many women and LGBTI HRDs received threats of violence, including threats of force, killing and sexual assault, through social media platforms by means of public posts, comments and direct messages. In several cases, Amnesty International found that LGBTI HRDs who spoke out about LGBTI rights within the Muslim community faced this violent backlash online due to their activism.

In addition to the enduring and profound harm caused by TfGBV, women and LGBTI HRDs encountered multiple barriers to justice. The Thai government has denied its involvement in targeted digital surveillance and online harassment against women and LGBTI HRDs. Despite some efforts by the NHRCT, the government has failed to conduct thorough investigations to uncover all relevant information relating to these violations and ensure accountability for those responsible for them.

This research found that women and LGBTI HRDs struggled with gender insensitivity in the Thai criminal justice system. In several cases, police officers did not recognize the severity of TfGBV, leading to failures in registering and investigating complaints effectively.

Further, both judicial and non-judicial mechanisms proved inadequate in addressing TfGBV. The judicial system has also not delivered justice for those subjected to Pegasus spyware and targeted smear campaigns. Similarly, non-judicial mechanisms, designed to offer alternative avenues for seeking accountability, revealed significant limitations.

This research identified a growing chilling effect among women and LGBTI HRDs due to TfGBV. The mental health of the HRDs was severely affected after the compounding effect of experiencing violence in the digital space and finding themselves unable to seek accountability. As a result, they adapted their behaviours, developing distrust in the use of digital technology and limiting their expression or fully disengaging from activism.

In the Malay Muslim-majority SBPs, the research identified a noticeable pattern in which HRDs who work on LGBTI rights chose to refrain from using social media platforms altogether to avoid any potential TfGBV. “Of course, we do use digital tools, such as Line, to communicate with each other. However, within our group, we would not post anything about our activities on social media. It’s too dangerous,” said a Malay Muslim student activist who identifies as “gender-diverse”. He further added that he has seen many cases of Muslim people who openly shared on social media about their LGBTI identities, with such exposure leading to harassment by members of their own communities.

As prominent woman HRD Angkhana Neelapaijit, who has experienced targeted smear campaigns, explained:

***“Many women and LGBTI defenders are feeling isolated because there is little support when they experience gender-based violence online... Once we’re broken, there’s no way to repair ourselves. Often, many people are left with only one option: to walk away quietly and leave their activism behind”.***

## HUMAN RIGHTS IMPACTS OF TFGBV

Thailand's Ministry of Foreign Affairs informed Amnesty International to affirm that "Thailand has continued to demonstrate its commitment to advance the rights of women and girls, LGBTI, as well as human rights defenders" and add that "[t]hese groups have continuously been identified as our priority groups in the National Human Rights Plan." However, the various forms of TfGBV documented by Amnesty International amount to violations of the rights to freedom from gender-based violence, freedom of expression, peaceful assembly and association, privacy and effective remedy of the targeted women and LGBTI HRDs.

The Thai state is directly responsible for these violations, as it is bound under IHRL to respect, protect and fulfil these rights. In many cases, it is difficult to unequivocally identify whether the Thai government took part in committing TfGBV, largely due to its lack of transparency and unwillingness to carry out effective investigations. However, at a minimum, in all the documented instances the government failed to protect the HRDs from the violations of the rights outlined above.

The Thai government has also failed to take sufficient action to ensure the right to an effective remedy for the HRDs subjected to TfGBV. This research indicates that the state failed to provide the women and LGBTI HRDs with access to relevant information concerning violations and reparation mechanisms; equal and effective access to justice; and adequate, effective and prompt reparation for harm suffered – the three components of this right required under IHRL.

NSO Group also failed to fulfil its responsibilities under the UN Guiding Principles, which provide that companies must respect all human rights. The company proceeded with the sale of Pegasus spyware, even though this highly invasive spyware does not include technical safeguards to ensure it does not cause human rights harm. Given these capabilities, any sale or use of this spyware cannot therefore be in line with IHRL.

Furthermore, if the NSO Group conducted human rights due diligence, it should have been aware of the history of digital repression against human rights activists and peaceful protesters in Thailand. With such knowledge, it would have had to be aware when it sold Pegasus spyware, including the sale that led to the violations described above (even if it did so through a distributor), that this product could or would cause direct human rights harm. At the time of publication, NSO Group had not replied to any of these allegations put to it by Amnesty International.

## CONCLUSION AND KEY RECOMMENDATIONS

Although Thailand continues to publicly position itself as a leader in gender equality, the testimony collected by Amnesty International indicates that this is far from the lived experience of women and LGBTI HRDs. The Thai government has failed to uphold the basic human rights of these HRDs guaranteed under international law. NSO Group has also failed to adequately respect its responsibility to respect human rights as set out in the UN Guiding Principles, given the role played by its Pegasus spyware in digitally surveilling women HRDs. To ensure compliance with IHRL, Amnesty International urges relevant actors to immediately adopt the following recommendations:

## TO THE GOVERNMENT OF THAILAND

Take immediate measures to address TfGBV against women and LGBTI HRDs by:

- Carrying out a prompt, independent, impartial and transparent investigation into all documented and reported instances of TfGBV against women and LGBTI HRDs, including but not limited to the use of unlawful targeted digital surveillance and online harassment mentioned in this research;
- Providing effective remedy in line with IHRL and standards to survivors of TfGBV, that are trauma-informed, survivor-centric and adopt an intersectional feminist approach, including by ensuring access to information about human rights abuses against them, guaranteeing equal and effective access to justice and providing appropriate reparations based on consultations with the survivors;
- Proactively removing structural and systemic barriers to gender equality, including by undertaking legislative measures, social policies and educational programmes to eliminate gender stereotypes, negative social norms and discriminatory attitudes against women, girls and LGBTI people and create awareness about the phenomenon of TfGBV, its consequences and intersectional harms.

Adopt the following recommendations for ending unlawful targeted digital surveillance:

- Proactively disclose information about all previous, current and future contracts between all state entities, including security agencies, and private surveillance companies;
- Enforce a ban on highly invasive spyware, whose functionality cannot be limited to only those functions that are necessary and proportionate to a specific use and target, or whose use cannot be independently audited.

Take the following actions to counteract the chilling effect and create a safe and enabling online and offline civic space, particularly for women and LGBTI people:

- End all criminal proceedings against all people, including women and LGBTI HRDs, charged solely for their involvement in peaceful protests or for exercising their right to freedom of expression;
- Adopt a specialized protocol for law enforcement officials in addressing TfGBV through a gender-sensitive, trauma-informed response;
- Provide protection for women and LGBTI HRDs who wish to pursue legal actions for TfGBV to ensure they are safe from reprisals.

## TO NSO GROUP

- Cease the use, production, sale, transfer and support of Pegasus or other similar highly invasive spyware that can neither be independently audited nor limited in its functionality, given that technical safeguards and a human rights-respecting regulatory framework would still be insufficient to prevent their adverse human rights impacts;
- Provide adequate compensation and other forms of redress to victims of unlawful targeted surveillance through Pegasus spyware in Thailand.



## 2. METHODOLOGY

This report documents the experiences of women and LGBTI human rights defenders (HRDs) in Thailand who have endured technology-facilitated gender-based violence (TfGBV), including unlawful targeted digital surveillance and online harassment, due to their activism.<sup>3</sup> This research builds on Amnesty International's existing work on the right to protest in Thailand, particularly since the beginning of mass pro-democracy demonstrations in 2020;<sup>4</sup> as well as Amnesty International's global work at the intersection of gender and technology.<sup>5</sup>

For the purposes of this report, Amnesty International has adopted a working understanding of TfGBV as any act of violence, or threats thereof, perpetrated by one or more individuals that is committed, assisted, aggravated and amplified in part or fully by the use of information and communication technologies or digital media, that disproportionately impacts women, girls and other people based on their real and/or perceived sexual orientation, gender identity and/or expression, causing physical, psychological, economic and sexual harm.<sup>6</sup> Gender-based violence exists in a continuum between physical and digital spaces. As the testimonies in this report show, TfGBV and offline violence against women and LGBTI people function in an intricate interplay where they often mirror, exacerbate and amplify each other.

This report is primarily based on research conducted between June 2023 and January 2024, including field research in Bangkok and Pattani province in Thailand, and group and individual interviews with 40 people. Nine of the interviewed individuals were targeted with the NSO Group's Pegasus spyware in 2020 and 2021, as documented by Citizen Lab and iLaw and independently analysed and confirmed by Amnesty International.<sup>7</sup> The remaining 31 individuals experienced other forms of TfGBV. All individuals interviewed are considered to be HRDs.<sup>8</sup>

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- 3 This report is part of Amnesty International's Global Flagship campaign, Protect the Protest. For more information on the campaign, concepts and calls, see: Amnesty International, "Protect the Protest", <https://www.amnesty.org/en/what-we-do/freedom-of-expression/protest/>
  - 4 Amnesty International has documented various types of violations of the rights to freedom of expression and freedom of peaceful assembly in Thailand, including in the context of digital repression. See: Amnesty International, "*They Are Always Watching*": *Restricting Freedom of Expression Online in Thailand* (Index: ASA 39/2157/2020), 23 April 2020, <https://www.amnesty.org/en/documents/asa39/2157/2020/en/>; Amnesty International, "*We Are Reclaiming Our Future*": *Children's Right to Peaceful Assembly in Thailand* (Index: ASA 39/6336/2023), 8 February 2023, <https://www.amnesty.org/en/documents/asa39/6336/2023/en/>. See also: Amnesty International, "Toxic Twitter – A Toxic Place for Women", 21 March 2018, <https://www.amnesty.org/en/latest/research/2018/03/online-violence-against-women-chapter-1-1/>
  - 5 In 2022, Amnesty Tech's Security Lab independently analyzed the results of a forensic investigation by iLaw, Citizen Lab and Digital Reach to uncover 35 individuals who were targeted with NSO Group's Pegasus spyware in Thailand. See: Citizen Lab, *GeckoSpy Pegasus Spyware Used against Thailand's Pro-Democracy Movement*, 17 July 2022, <https://citizenlab.ca/2022/07/geckospy-pegasus-spyware-used-against-thailands-pro-democracy-movement>; iLaw, *Parasite That Smiles: Pegasus Spyware Targeting Dissidents in Thailand*, 16 July 2022, <https://freedom.ilaw.or.th/en/report-parasite-that-smiles>
  - 6 Amnesty International recognizes that United Nations mechanisms and feminist scholars and activists continue to develop definitions of this phenomenon and seek to embrace and understand the different elements of each proposal. Amnesty International has adopted this understanding for this research, while recognizing the ongoing process of defining the term. See, for example: UN Women, "Technology-facilitated violence against women: Taking stock of evidence and data collection", March 2023, <https://www.unwomen.org/en/digital-library/publications/2023/04/technology-facilitated-violence-against-women-taking-stock-of-evidence-and-data-collection>
  - 7 Citizen Lab, *GeckoSpy Pegasus Spyware Used against Thailand's Pro-Democracy Movement* (previously cited); iLaw, *Parasite That Smiles* (previously cited).
  - 8 The term "human rights defender" (HRD) is not mutually exclusive with the term "activist". An individual can be both an HRD and activist, as long as they do not resort to or advocate hatred, discrimination or violence, or deny the universality of human rights (all human rights for all) or take action that seeks to undermine the human rights of others. See Glossary for the full definition.

Amnesty International highlights the voices of a wide range of individuals following an intersectional approach. Among the 40 interviewees, 14 individuals are cisgender heterosexual women and 26 are LGBTI people, including transgender and intersex women and non-binary individuals. At least 25 of the interviewees are students or graduates who started their activism when they were under 25 years old, including two who were child HRDs. Many interviews took place in Bangkok, where the majority of protests have taken place. However, this report also features the voices of Malay Muslim women and LGBTI HRDs from the country's southern border provinces (SBPs), where negative attitudes towards women and LGBTI people remain prevalent. In cases of LGBTI HRDs in these provinces, Amnesty International has withheld their names and other personally identifiable details to protect their identity and prevent any potential reprisals.

THIS REPORT IS PRIMARILY BASED  
ON RESEARCH CONDUCTED BETWEEN  
JUNE 2023 AND JANUARY 2024, INCLUDING



Informed consent was obtained for each interview. Amnesty International delegates explained the format of the interview and the ways in which their personal information could be used. Given the sensitive nature of TfGBV-related issues in Thailand, Amnesty International ensured that interview questions were framed appropriately to minimize potential psychological impacts on the interviewees. Amnesty International provided no remuneration to the interviewees in exchange for testimonies.

To corroborate information received from the interviewees, Amnesty International carried out extensive desk research through analysis of content on social media platforms. This research method was selected to avoid asking interviewees to revisit past incidents of TfGBV that can result in re-traumatization.

Additionally, Amnesty International conducted an in-depth review of academic literature and international law and standards relevant to the issues addressed in this report. Particular emphasis was placed on research from the Global South, to complement the analysis and calls provided by the HRDs interviewed. The research team also met with civil society organizations, academics and Thai lawyers working on strategic litigation to challenge the use of Pegasus spyware in the country, to verify information and assess the adequacy of existing domestic remedies.

In all instances of TfGBV documented in this report, one or more companies played a key role in allowing for human rights abuse to take place – whether by selling the surveillance spyware that was used to target activists or by failing to take action to protect activists from online harassment and other forms of TfGBV taking place on their social media platforms. Although this report provides such examples, including detailed testimony of the harm suffered by women and LGBTI HRDs, it does not focus on the responsibility of such companies. That is not because they do not bear responsibility for such harm, but rather because the focus of this report is on the primary duty bearer, the state of Thailand, which has failed to protect certain human rights of the women and LGBTI HRDs interviewed.

Despite this acknowledged limitation, Amnesty International sent a letter on 5 April 2024 to NSO Group, Circles, Q Cyber Technologies SARL and related legal entities, sharing its key allegations relating to the development and sale of the Pegasus software that was used to target nine of the 40 interviewees. At the time of publication, NSO Group had not replied. Amnesty International also sent a letter to Cognyte and related legal entities on 10 April 2024, sharing key allegations regarding the use of their services for surveillance activities on Facebook by one or more customers in Thailand. At the time of publication, Cognyte also had not responded.

In addition, on 3 April 2024, Amnesty International wrote to the Thai government through the Office of the Prime Minister to share this research’s findings, allegations, recommendations and questions about the Thai state’s responsibilities under international law with regards to TfGBV against women and LGBTI HRDs in the country. Copies were also sent to eight other relevant entities on the same day, including the Ministry of Foreign Affairs, the Ministry of Interior, the Ministry of Defence, the Ministry of Digital Economy and Society (MDES), the Ministry of Justice, the National Human Rights Commission of Thailand (NHRCT), the Royal Thai Police (RTP), and the Internal Security Operations Command (ISOC). The Ministry of Foreign Affairs, the Office of the Prime Minister and the Ministry of Justice provided responses on 19, 24 and 29 April 2024 respectively. These responses are included in their entirety in Annex 2.

Amnesty International would like to express our deepest gratitude to the women and LGBTI HRDs who agreed to share their stories and the non-governmental organizations (NGOs) and activists who generously provided support for the research, including Thai Lawyers for Human Rights (TLHR), Fortify Rights, iLaw, Look South Peace and LGBTI rights advocate Akekawat “Phrai” Pimsawan. Amnesty International hopes that this research helps strengthen protections for women and LGBTI people in Thailand and abroad and helps to pave the way towards a world where all individuals can live free from gender-based violence in all its forms, both in offline and online spaces.



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# 3. INTRODUCTION

Thailand has long positioned itself as a champion of gender equality. The Tourism Authority of Thailand’s campaign “Go Thai, Be Free” presents Thailand as the “most LGBTIQ / LGBTI+ welcoming country in Asia” and states that: “In Thailand, we believe diversity is amazing”.<sup>9</sup> In 2022, Thailand hosted the Global Summit of Women where the former Prime Minister, General Prayut Chan-o-cha, pledged to promote gender equality and empower women.<sup>10</sup> In 2023, a new government similarly expressed its commitment to guarantee “gender equality” and pledged to pass laws to legalize same-sex marriage, decriminalize sex work and allow for legal gender recognition with an ambitious goal for Thailand to become the host of World Pride in 2028.<sup>11</sup>

Despite these positive signs, the governments’ commitments regrettably do not translate into the lived reality of women and LGBTI HRDs in Thailand. Over the past decade, women and LGBTI people have played a crucial role in Thai civil society. However, they have encountered barriers, discrimination, restrictions and repression because of their sexual orientation, gender identity and/or expression and sex characteristics (SOGIESC), coupled with shrinking civic space both offline and online.

## 3.1 GENDER AND CIVIC SPACE IN THAILAND

### 3.1.1 THE 2014 MILITARY COUP

Civic space in Thailand shrank dramatically after the Thai military seized power from the civilian government on 22 May 2014. The coup followed months-long protests against the government of Yingluck Shinnawatra, the first and only female prime minister of Thailand. It led to the establishment of a military government under the name the National Council for Peace and Order (NCPO) led by Prayut Chan-o-cha.<sup>12</sup>

During the NCPO’s five-year rule between 2014 and 2019, Amnesty International documented how critics and activists were subjected to arbitrary arrest and detention, including incommunicado detention for the purpose of “attitude adjustments”.<sup>13</sup> The repression under the NCPO’s rule directly impacted activism by women and LGBTI HRDs. For example, in 2016, prominent lawyer and HRD Sirikan Charoensiri was accused of sedition and other criminal charges due to her work providing legal assistance for pro-democracy activists.<sup>14</sup> In other cases, LGBTI critics of the government and the monarchy, including Pavin Chachavalpongpun, had to flee Thailand and seek asylum in other countries.<sup>15</sup>

9 Go Thai Be Free <https://www.gothaibefree.com/> (accessed on 14 March 2024).

10 Bangkok Post, “Govt promotes gender equality”, 24 June 2022, <https://www.bangkokpost.com/thailand/general/2332838/govt-promotes-gender-equality>

11 Prachatai, “กระทรวงฯ คาด กม.สมรสเท่าเทียม จะผ่านสภาฯได้ทันวันคล้ายวันสถาปนา ‘World Pride’”, 26 October 2023, <https://prachatai.com/journal/2023/10/106526> (in Thai).

12 Amnesty International, “*They Are Always Watching*” (previously cited), p. 6.

13 “Attitude adjustment” camps were used as a means for the NCPO to detain critics and dissidents to “adjust their way of thinking,” according to Thai authorities. Amnesty International’s research showed that the process of attitude adjustment led to the violation of various human rights, including the right to liberty, the right to be free from torture and other ill-treatment, the right to fair trial and the rights to freedom of expression and peaceful assembly. See Amnesty International, *Attitude Adjustment: 100 Days under Martial Law* (Index: ASA 39/011/2014), 11 September 2014, <https://www.amnesty.org/en/documents/asa39/011/2014/en/>, p. 44.

14 Amnesty International, “Urgent Action: Unfairly charged lawyer risks imprisonment” (Index: ASA 39/5044/2016), 11 November 2016, [https://www.amnesty.or.th/files/5115/0538/6275/ua\\_-\\_june\\_eng.pdf](https://www.amnesty.or.th/files/5115/0538/6275/ua_-_june_eng.pdf)

15 See, for example, Khaosod English, “Arrest warrant out for anti-monarchy exile ‘Aum Neko’”, 19 November 2016, <https://www.khaosodenglish.com/politics/2016/11/19/arrest-warrant-anti-monarchy-exile-aum-neko/> and Time, “The Thai junta revokes a famed academic’s passport in its crackdown on dissidents”, 10 July 2014, <https://time.com/2971785/thailand-junta-pavin-chachavalpongpun-passport/>

## DUE TO THE CLIMATE OF HOMOPHOBIA

LGBTI INDIVIDUALS TEND TO REFRAIN FROM ANY PUBLIC ACTIVISM RELATED TO GENDER EQUALITY THAT COULD LEAD TO POTENTIAL REPRISALS.



The 2014 military coup also affected realization of the rights to freedom of expression and peaceful assembly in the Malay Muslim-majority SBPs. The SBPs, which encompass the provinces of Yala, Pattani and Narathiwat and four districts of Songkhla province (Saba Yoi, Tepha, Chana and Natawee), experienced an insurgency resulting from a deeply rooted resentment by Malay Muslim groups towards the central government's efforts to assimilate and marginalize the local Malay Muslim population.<sup>16</sup>

Under the NCPO, authorities increasingly targeted HRDs in the SBPs. For example, in May 2016, the ISOC Region 4, a military-led state agency responsible for security operations in the SBPs, initiated charges of criminal defamation and computer crimes against three HRDs, including women HRDs Anchana Heemmina and Pornpen Khongkachonkiet, who published reports of alleged torture and other ill-treatment by police and military officers in the region.<sup>17</sup>

LGBTI activism has also been particularly challenging in the SBPs because of hostile attitudes towards LGBTI people by local communities. A 2014 UNDP report concluded that LGBTI people in the SBPs often “felt the need to migrate to larger cities where LGBTI identities were more widely visible,” noting that “attitudes towards LGBTI people tend to be more conservative and unfavorable in these areas”.<sup>18</sup> Due to the climate of homophobia, LGBTI individuals tend to refrain from any public activism related to gender equality that could lead to potential reprisals.

### 3.1.2 YOUTH-LED PROTEST MOVEMENT

In late 2018, the NCPO announced it would hold a general election in March 2019. Coup leader Prayut Chan-o-cha became Prime Minister again primarily through the support of the military-backed Palang Pracharat Party, which came in second, heading a coalition of 19 parties under Prayut Chan-o-cha's premiership and senators from the upper house hand-picked by the NCPO.<sup>19</sup>

On 21 February 2020, Thailand's Constitutional Court ordered the dissolution of the Future Forward Party (FFP), a new pro-democracy party popular among young people which had gained the highest number of seats in parliament in the prior election. This became one of the main triggers of the youth-led protest movement, which started with three core demands: the dissolution of parliament and fresh elections; a new constitution; and an end to the harassment and prosecution of protesters and government critics.<sup>20</sup> Later on, many groups began to call for reform of the monarchy – a particularly sensitive issue in Thailand (See Box 1).

16 Amnesty International, *Torture in the Southern Counter-Insurgency* (Index: ASA 39/001/2009), 13 January 2009, <https://www.amnesty.org/en/wp-content/uploads/2021/07/asa390012009eng.pdf>, p. 4.

17 Amnesty International, “Thailand: Withdraw charges against human rights defender,” 20 June 2016, <https://www.amnesty.org/en/latest/press-release/2016/06/thailand-withdraw-charges-against-human-rights-defenders/>

18 United Nations Development Programme (UNDP) and U.S. Agency for International Development (USAID), *Being LGBT in Asia: Thailand Country Report*, 2014, p. 31.

19 Workpoint Today, “ปัจจัยเสี่ยงที่สื่อเผชิญรัฐบาล “พล.อ.ประยุทธ์” จาก 19 พรรคการเมือง มาจุดดับประวิติศาสตร์,” 9 June 2019, <https://workpointtoday.com/government-risk-factors-gen-prayut/>

20 Amnesty International, “My Face Burned as if on Fire”: *Unlawful Use of Force by Thailand's Police During Public Assemblies* (Index: ASA 39/4356/2021), 2 July 2021, <https://www.amnesty.org/en/wp-content/uploads/2021/07/ASA3943562021ENGLISH.pdf>, p. 13.

## BOX 1: BREAKING THE SILENCE ABOUT THE MONARCHY

Thailand (formerly known as Siam) has been governed as a constitutional monarchy since the Siamese Revolution which marked the end of absolute monarchy on 24 June 1932.<sup>21</sup> The history of post-revolution Thailand comprised episodes of various governments' efforts to censor and silence criticism of the monarchy, targeting critics and political opponents through criminal prosecutions and other violent means.<sup>22</sup> The Constitutional Court affirmed in 2012 that the King enjoys a "sacred" and "inviolable" status, entrenching the taboo nature of criticism of the monarchy.<sup>23</sup>

During a Harry Potter-themed protest on 3 August 2020, human rights lawyer Anon Nampa broke the long-standing silence around the monarchy by delivering a speech calling for reforms of the institution and amendments to the *lèse-majesté* law.<sup>24</sup> He also demanded an end to the harassment of critics of the monarchy.<sup>25</sup> Following this protest, many other activists began speaking out publicly to demand reform of the monarchy.

With the rise of the youth-led pro-democracy movement in 2020, a new generation of women and LGBTI activists, especially youths, were at the forefront of the protests. Women protest leaders, such as Panusaya Sithijirawattanakul, Benja Apan and Jutatip Sirikhan, were vocal in demanding democratization in Thailand.<sup>26</sup> Meanwhile, two openly gay student activists – Tattap Ruangprapaikitseree and Panumas Singprom – led many rallies to call for political reforms and marriage equality.<sup>27</sup> Key protest leaders Parit Chiwarak and Panupong Maneewong also identified themselves as part of the LGBTI community.<sup>28</sup>

LGBTI-led group Seri Toey Plus and Feminist's Liberation Front Thailand, among many other feminist and LGBTI rights groups, played a critical role in supporting the protest movement. Activists took to the streets and used protests as an avenue to call for democratization and the legal protection of same-sex marriage, decriminalization of sex work and the elimination of domestic violence.<sup>29</sup> Protesters also spoke out on intersectional challenges facing women and LGBTI people in minority communities, including LGBTI Muslims in the SBPs.<sup>30</sup>

21 Tyrell Haberkorn, "Under and beyond the Law: Monarchy, Violence, and History in Thailand", 2 August 2021, *Politics & Society*, Volume 49, Issue 3, 311–336, 2 August 2021, <https://journals.sagepub.com/doi/abs/10.1177/00323292211033073>, p. 311.

22 Tyrell Haberkorn, "Under and beyond the Law" (previously cited), pp. 321-329.

23 "A History of the Thai *Lèse-Majesté* Law", in *Thai Legal History: from Traditional to Modern Law* (eds. Andrew Harding and Munin Pongsapan), 2021, pp. 85-87.

24 Prachatai, "ขุนนวมธำมรงค์ พอดเดอว์ ร้องยกเลิก-แก้กฎหมายชายพระราชอำนาจฯ และฟังเสียงนักศึกษา-ประชาชน", 3 August 2020, <https://prachatai.com/journal/2020/08/88882> (in Thai).

25 Prachatai, "ขุนนวมธำมรงค์ พอดเดอว์ ร้องยกเลิก-แก้กฎหมายชายพระราชอำนาจฯ และฟังเสียงนักศึกษา-ประชาชน", 3 August 2020, <https://prachatai.com/journal/2020/08/88882> (in Thai).

26 New York Times, "Young Women Take a Frontline Role in Thailand's Protests", 24 September 2020, <https://www.nytimes.com/2020/09/24/world/asia/thailand-protests-women.html>

27 Reuters, "The Thai protest leader who emerged with a kiss", 11 September 2020, <https://www.reuters.com/article/idUSKBN26203R/>

28 See Parit Chiwarak's interview regarding his sexuality at The Opener, "เทคนิควิน ของสังภาพ LGBT ต้องไม่ข้ามแค่สังการ", 9 June 2020, <https://theopener.co.th/node/988> (in Thai). Panupong Maneewong told Amnesty International during an interview in 2023 that he identifies as gender non-conforming. Interview by voice call with Panupong Maneewong, gender-diverse HRD and protest leader, 13 December 2023.

29 The Matter, "จากม็อบ 'ชนวนถี V4' ถึง สิวาธิและความท้าทายทางเพศที่ 'ไม่มีวันมาถึง' ในรัฐเผด็จการ", 20 October 2021, <https://thematter.co/thinkers/lgbtq-feminist-protest-in-9-oct-2021/158113> (in Thai).

30 The Matter, "LGBTQ กับพื้นที่ทางฯ ในสังคมมุสลิม ถึงเวลาหรือยังที่จะหยิบเรื่องนี้มาพูดคุย?", 16 November 2020, <https://thematter.co/social/talk-with-warich-noochouy/128699> (In Thai) and The Matter, "เมื่อรัฐไม่ยอมรับ ฉันจึงเคลื่อนไหว คุยกับนักเคลื่อนไหวกะเทยไร้สัญชาติ แซม สามเมท", 18 February 2022, <https://thematter.co/social/interview-sam-samat/168180> (in Thai).

As protesters began organizing mass demonstrations, Thai authorities resorted to heavy-handed measures to disperse crowds, including the deployment of water cannons, tear gas and rubber bullets.<sup>31</sup> Between 2020 and 2023, hundreds of activists, including at least 96 women and 22 LGBTI people, reported being subjected to surveillance, intimidation and harassment by state officials.<sup>32</sup> The government weaponized various laws to criminalize dissent and arrest and detain critics. Between July 2020 and November 2023, at least 1,935 protesters, including 392 women, 56 girls and 68 LGBTI people including 10 children, faced criminal charges in relation to their participation in these protests.<sup>33</sup>

In the May 2023 elections, the pro-democracy Move Forward Party, a reincarnation of the then-defunct FFP, won the most seats in parliament.<sup>34</sup> However, it failed to secure enough votes from the upper house to form a government,<sup>35</sup> leading the runner-up Pheu Thai Party to form a ruling coalition with parties that had close ties to the military.<sup>36</sup>

The repression of civic space remains in place, despite the change of government. Trials against peaceful protesters continue to take place, with at least 795 cases or 63% of the total number of cases still pending in court by end of 2023.<sup>37</sup>

## 3.2 DIGITAL TECHNOLOGY AND ACTIVISM IN THAILAND

Digital technology has been a vital tool for activism in Thailand for several years, particularly for the youth-led pro-democracy movement. After the 2019 March election, the new generation of activists has increasingly used social media platforms, particularly Facebook, Instagram, X (formerly Twitter) and TikTok, for their mobilization and financing of offline activities.<sup>38</sup> The outbreak of Covid-19 led to an even greater reliance on online platforms as sites for virtual protests.<sup>39</sup>

Social media platforms have allowed women and LGBTI people to build communities of people with similar aims and to advance gender equality-related activism. Many of these communities run public pages or accounts on social media sites to educate people about feminism and LGBTI rights<sup>40</sup> and to campaign on behalf of individuals experiencing gender-based violence and discrimination.<sup>41</sup>

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31 Amnesty International's research uncovered many other instances between October 2020 and February 2021 where police officers used unnecessary and disproportionate force against peaceful protesters. See Amnesty International, *"My Face Burned as if on Fire"* (previously cited).

32 Information received directly from Thai Lawyers for Human Rights (TLHR), 13 December 2023. In these instances, authorities usually called activists and human rights defenders, including children under 18 years old, on their phones to check on their activities, followed them around to different places and visited them and their family members at home.

33 Among these individuals, 1,469 people were charged for violating the ban on public gathering under the Emergency Decree, 262 people under the *lèse-majesté* law, 135 under the sedition law and 179 under the Public Assembly Act - TLHR, พฤศจิกายน 2566: จำนวนผู้ถูกดำเนินคดีทางการเมืองขอลดรวม 1,935 คน ใน 1,262 คดี, 5 December 2023, <https://tlhr2014.com/archives/61998> (in Thai). The disaggregated data on women and LGBTI protesters charged came directly from Amnesty International's private communication with TLHR, 13 December 2023.

34 Time Out, "Move Forward Party scores landslide victory in Bangkok, and secures major votes nationwide", 15 May 2023, <https://www.timeout.com/bangkok/news/move-forward-party-scores-landslide-victory-in-bangkok-and-secures-major-votes-nationwide-051523>

35 Guardian, "Leader of Thailand's most popular party fails in final attempt to become PM", 19 July 2023, <https://www.theguardian.com/world/2023/jul/19/thailand-pm-vote-move-forward-leader-pita-limjaroenrat>

36 Workpoint Today, "สำรวจคะแนนเลือกตั้ง 'เพื่อไทย' แลลงจัดตั้งรัฐบาล 11 พรรค รวม 314 เสียง", 21 August 2023, <https://workpointtoday.com/formgov-pheuthai> (in Thai)

37 TLHR, "2566 ปีแห่งคำพิพากษาคดีการเมือง: คดีที่วิมเกียรติยศ และมีคำพิพากษาแทบทุกรุ่นทำถาวร" 30 December 2023, <https://tlhr2014.com/archives/62665> (in Thai).

38 This statement refers to a general observation based on Amnesty International's interviews with women and LGBTI HRDs about the online tools they use(d) frequently for their activism.

39 For example, following the outbreak of Covid-19, many young people were dissatisfied with the inadequate remedy provided for those affected by the government's partial lockdown policies in April 2020. Student activists, therefore, started a virtual campaign on social media platforms calling for people to express their grievances related to the government's ineffective pandemic responses using the hashtag #MobFromHome. See Matichon, "เริ่มแล้ว! #MobFromHome ประท้วงจากบ้าน ทั่วประเทศด้วยชา-โคลิก" ด้วยหน้าอย่างเห็นเด่นชัดๆ 25 April 2020, [https://www.matichon.co.th/politics/news\\_2156955](https://www.matichon.co.th/politics/news_2156955) (in Thai).

40 Interview in person with Nitchakarn Rakwongrit, non-binary HRD and youth feminist activist, 28 August 2023, Bangkok.

41 Interview by video call with Nada Chaiyakit, intersex transgender HRD, 23 November 2023.

### 3.3 THE ECOSYSTEM OF DIGITAL REPRESSION

The Thai authorities understand the power that digital technology has in facilitating activism amid growing dissent. They have made efforts to restrict the ability to mobilize and organize protests in the digital space, as well as utilizing digital technology to tighten their control.

In response to the rise of online activism after 2020, the Thai government aggressively used the Computer Crimes Act (CCA), which criminalizes the dissemination of “false” or “distorted” information online, to prosecute dissidents.<sup>42</sup> According to TLHR, 195 protesters, including at least 48 women and 17 LGBTI people, faced charges under this law between 18 July 2020 and 30 November 2023 because of their online criticism of the government or the monarchy.<sup>43</sup> In some cases, individuals were sentenced to decades of imprisonment for criticizing the monarchy on social media platforms, such as the cases of Anchan Preeert and Mongkol Thirakhot (See Box 2).

#### BOX 2: DECADES OF IMPRISONMENT FOR ONLINE EXPRESSION

On 19 January 2021, Anchan Preeert, a former civil servant, was sentenced to 87 years in prison for sharing and posting clips on social media of an online talk show alleged to have made defamatory comments about the monarchy.<sup>44</sup> The court found her guilty of violating the lèse-majesté law and the CCA. As she pleaded guilty, her sentence has been reduced to 43-and-a-half years.

Three years later, on 18 January 2024, political activist Mongkol Thirakhot was sentenced by the court of appeal to 50 years in prison for his Facebook posts related to the monarchy. He was found guilty of violating the lèse-majesté law and the CCA.<sup>45</sup>

Aside from the criminalization of internet users, investigations by social media companies confirmed the Thai authorities' involvement in online smear campaigns, widely known in Thailand as ‘information operations’ (IOs). In October 2020, X found “a network of accounts partaking in information operations that [X] can reliably link to the Royal Thai Army (RTA)”.<sup>46</sup> According to the findings, the network included 926 accounts “amplifying pro-RTA and pro-government content, as well as engaging in disseminating narratives to attack prominent political opposition figures”.<sup>47</sup>



42 See Chapter 4 for more details about the CCA's legal provisions.

43 Information obtained directly from Thai Lawyers for Human Rights, December 2023.

44 Amnesty International, “Thailand: 87-year prison sentence handed in harshest lèse-majesté conviction,” 19 January 2021, <https://www.amnesty.org/en/latest/press-release/2021/01/thailand-87-prison-sentence-lèse-majesté>

45 See Guardian, “Man jailed for record 50 years for criticising Thai monarchy” 18 January 2024, <https://www.theguardian.com/world/2024/jan/18/man-jailed-for-record-50-years-for-criticising-thai-monarchy#:~:text=A%20Thai%20man%20has%20been,a%20legal%20rights%20group%20said>.

46 X, “Disclosing networks to our state-linked information operations archive”, 8 October 2020, [https://blog.twitter.com/en\\_us/topics/company/2020/disclosing-removed-networks-to-our-archive-of-state-linked-information](https://blog.twitter.com/en_us/topics/company/2020/disclosing-removed-networks-to-our-archive-of-state-linked-information)

47 X, “Disclosing networks to our state-linked information operations archive” (previously cited).



Similarly, in February 2021, Meta reported the removal of a network of 77 accounts, 72 pages and 18 groups on Facebook as well as 18 accounts on Instagram for “government interference”.<sup>48</sup> Meta’s findings indicated that “[t]his network originated in Thailand and targeted domestic audiences in the Southern provinces of Thailand”, finding linkages between the network and ISOC.<sup>49</sup> According to the findings, the network disseminated content which supported the Thai military and monarchy and commented on the situation of armed violence in the SBPs.<sup>50</sup> It also attacked the work of NGOs, including Amnesty International Thailand.<sup>51</sup>

State-backed IOs are also often supported by ‘independent’ actors whose ideology is closely aligned with the Thai state.<sup>52</sup> Some examples include vigilante royalist groups, such as Thai Move Institute, Rubbish Collection Organization (RCO) and Center of Legal Assistance for Victims of Cyberbullying (CLAVC); royalist media, such as Top News; and pro-state online websites and social media pages, such as The Mettad and The Truth.<sup>53</sup> These state-aligned actors play a crucial role in driving and amplifying online campaigns to promote state interests.<sup>54</sup>

Notably, these actors also proactively helped intensify the state’s digital repression. For example, RCO has used social media platforms to encourage violence against activists and HRDs.<sup>55</sup> CLAVC had also engaged in sending threats of judicial harassment to protesters through direct messages on social media platforms and using Google Maps to leak private information about their lives.<sup>56</sup>

Further, the Thai government has a record of purchasing and using digital surveillance technologies. According to the Citizen Lab, a technical research institute covering issues of technology, human rights and global security, the RTA and RTP reportedly purchased spyware called Remote-Control System (RCS) from the now dissolved Italian surveillance technology company Hacking Team between 2013 and 2014.<sup>57</sup> The Citizen Lab found that the RCS spyware allows its users to capture offline data on a target’s computer; access encrypted internet communications; record e-mails, messages and video calls; and turn on a targeted device’s webcam and microphone.<sup>58</sup> Later, in 2020, the Citizen Lab again exposed through forensic investigation that three Thai state agencies – ISOC, RTA and RTP – had deployed another spyware, this time developed by Circles, a company known for selling spyware to governments that exploits the global cellular system.<sup>59</sup>

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48 Meta, “February 2021 Coordinated Inauthentic Behavior Report”, February 2021, <https://about.fb.com/wp-content/uploads/2021/03/February-2021-CIB-Report.pdf>, p. 5-8.

49 Meta, “February 2021 Coordinated Inauthentic Behavior Report” (previously cited), p. 5-8.

50 Meta, “February 2021 Coordinated Inauthentic Behavior Report” (previously cited), p. 5-8.

51 Meta, “February 2021 Coordinated Inauthentic Behavior Report” (previously cited), p. 7.

52 Janjira Sombatpoonsiri, “We are Independent Trolls”: *The Efficacy of Royalist Digital Activism in Thailand*, 5 January 2022, <https://www.iseas.edu.sg/articles-commentaries/iseas-perspective/2022-1-we-are-independent-trolls-the-efficacy-of-royalist-digital-activism-in-thailand-by-janjira-sombatpoonsiri/>

53 Janjira Sombatpoonsiri, “We are Independent Trolls” (previously cited).

54 Janjira Sombatpoonsiri, “We are Independent Trolls” (previously cited).

55 Wolfram Schaffar, *New Social Media and Politics in Thailand: The Emergence of Fascist Vigilante Groups on Facebook*, [https://www.ssoar.info/ssoar/bitstream/handle/document/62850/ssoar-aseas-2016-2-schaffar-New\\_Social\\_Media\\_and\\_Politics.pdf?sequence=1&isAllowed=y](https://www.ssoar.info/ssoar/bitstream/handle/document/62850/ssoar-aseas-2016-2-schaffar-New_Social_Media_and_Politics.pdf?sequence=1&isAllowed=y)

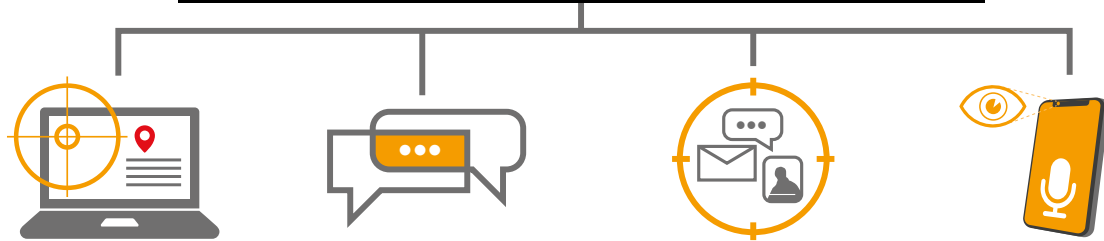
56 TLHR, “Cyber vigilante group threatens at least 62 individuals with lese majeste, leaking personal information of over 466 individuals via Google Map” <https://tlhr2014.com/en/archives/31439> (accessed on 25 March 2024).

57 The Hacking Team described the RCS as “the hacking suite for governmental interception” sold only to governments and stated that the spyware is “untraceable” to any specific government entity. However, Thai authorities, including former Prime Minister Prayut Chan-o-cha, repeatedly denied this claim. See the full result of the forensic investigation that led up to this conclusion at Citizen Lab, *Mapping Hacking Team’s “Untraceable” Spyware*, 17 February 2014, <https://citizenlab.ca/2014/02/mapping-hacking-teams-untraceable-spyware/#8> and read more about Prayut Chan-o-cha’s denial of this allegation at BBC Thai, วิถีลึกลับ: สื่อนรอมออกสารการจับข้อผิดที่พิมพ์สอดแนมจากอดีต ไลต์ของที่พบและสำนักงานตำรวจแห่งชาติของไทย, 12 April 2019, <https://www.bbc.com/thai/47908180> (in Thai).

58 Citizen Lab, *Mapping Hacking Team’s “Untraceable” Spyware* (previously cited).

59 Citizen Lab, *Running in Circles: Uncovering the Clients of Cyberespionage Firm Circles*, 1 December 2020, <https://citizenlab.ca/2020/12/running-in-circles-uncovering-the-clients-of-cyberespionage-firm-circles/>

# THE THAI GOVERNMENT HAS A RECORD OF PURCHASING AND USING DIGITAL SURVEILLANCE TECHNOLOGIES



In December 2021, Meta published a threat report on the surveillance-for-hire industry which identified Thai customers of Cognyte, an Israel-based firm managing fake accounts on social media platforms to “social-engineer people and collect data”.<sup>60</sup> The report stated that Meta removed “about 100 accounts on Facebook and Instagram which were linked to Cognyte (formerly known as WebintPro) and its customers”.<sup>61</sup> However, it did not provide the number of accounts operating in Thailand or details about who the customers in Thailand were and what activities were being carried out through Cognyte.<sup>62</sup>

Furthermore, many activists and an opposition political leader reported having found Global Positioning System (GPS) trackers in their cars between 2020 and 2023.<sup>63</sup> The tool reportedly has the capacity not only to track geolocation but also to eavesdrop and record conversations.<sup>64</sup> While activists in these cases speculated that the trackers belonged to the authorities, Amnesty International has not been able to receive confirmation from official sources.

60 Meta, “Threat Report on the Surveillance-for-Hire Industry”, December 2021, <https://about.fb.com/wp-content/uploads/2021/12/Threat-Report-on-the-Surveillance-for-Hire-Industry.pdf>, p. 8.

61 Meta, “Threat Report on the Surveillance-for-Hire Industry” (previously cited), p. 8.

62 Meta, “Threat Report on the Surveillance-for-Hire Industry” (previously cited), p. 8.

63 See more details of the cases at iLaw, แอมคิด GPS นักกิจกรรมทำไม่ได้”ไม่มีกฎหมายรองรับ, 18 August 2021, <https://freedom.ilaw.or.th/blog/GPDnotlegal> and TLHR, ทร.อุบลฯ ลุกตามนักกิจกรรมหนัก! แอมคิด ‘GPS’ – ไม่ให้วิ่งไรเดอร์” हरวันการเคลื่อนไหว ในช่วงเข้าที่ปรักรฯ เสด็จ, 2 January 2024, <https://tlhr2014.com/archives/62715>

64 iLaw, แอมคิด GPS นักกิจกรรมทำไม่ได้”ไม่มีกฎหมายรองรับ, 18 August 2021; and TLHR, ทร.อุบลฯ ลุกตามนักกิจกรรมหนัก! แอมคิด ‘GPS’ – ไม่ให้วิ่งไรเดอร์” हरวันการเคลื่อนไหว ในช่วงเข้าที่ปรักรฯ เสด็จ, 2 January 2024 (previously cited).

# 4. LEGAL FRAMEWORK

This chapter provides an overview of the international human rights law (IHRL) obligations and responsibilities that bind the Thai state and private actors such as companies in connection to TfGBV against women and LGBTI HRDs in Thailand. It also offers an overview of relevant national legislation for the issues documented in this research.

## 4.1 INTERNATIONAL HUMAN RIGHTS FRAMEWORK

### 4.1.1 STATE OBLIGATIONS

#### BOX 3: WHAT HUMAN RIGHTS CAN BE AFFECTED BY TFGBV?

Although TfGBV can affect the realization of many human rights, this report focuses on the right to live free from gender-based violence, the rights to privacy, freedom of expression, freedom of peaceful assembly, freedom of association and the right to an effective remedy. These rights are protected by several treaties and declarations, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Thailand has ratified these treaties and thus must comply with their obligations, including to respect, protect and fulfil the rights outlined in this chapter.

## RIGHT TO LIVE FREE FROM GENDER-BASED VIOLENCE

International law obliges states to uphold the right to live free from gender-based violence.<sup>65</sup> Under CEDAW and other international human rights instruments, gender-based violence includes “violence which is directed against a woman because she is a woman or that affects women disproportionately.”<sup>66</sup> The definition of gender-based violence also covers violence “committed, assisted or aggravated in part or fully by the use of ICT, such as mobile phones and smartphones, the Internet, social media platforms or email [...]”<sup>67</sup>

UN human rights mechanisms and bodies have increasingly recognized that SOGIESC also plays a crucial role in shaping and exacerbating gender-based violence, including TfGBV, especially against individuals identifying as part of the LGBTI community. The UN Committee on the Elimination of Discrimination against Women noted in General Recommendation No. 35 that CEDAW recognizes the intersecting forms of discrimination against lesbian, bisexual and transgender women and intersex

65 UN Special Rapporteur on violence against women, its causes and consequences (SR on VAW), Report on online violence against women and girls from a human rights perspective, 18 June 2018, A/HRC/38/47, para 50, <https://documents.un.org/doc/undoc/gen/g18/184/58/pdf/g1818458.pdf?token=wK7EQk2iGHQceookJY&fe=true>

66 Committee on the Elimination of Discrimination against Women (CEDAW), General recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19 (1992), 26 July 2017, CEDAW/C/GC/35, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no-35-2017-gender-based>;

67 SR on VAW, Report on online violence against women and girls from a human rights perspective (previously cited), para 22.

persons.<sup>68</sup> In a report about SOGIESC-based discrimination to the UN Human Rights Council in November 2011, the then-UN High Commissioner for Human Rights further acknowledged that homophobic and transphobic attacks constitute a form of gender-based violence.<sup>69</sup>

Under this legal framework, TfGBV against women and LGBTI HRDs constitutes a violation of the right to live free from gender-based violence. IHRL requires that states ensure that state and non-state agents refrain from all forms of violence against women and LGBTI people, including TfGBV.<sup>70</sup> They must also take all necessary steps to protect those subjected to TfGBV<sup>71</sup> and investigate these offenses, bring perpetrators to justice, and provide survivors with appropriate reparation.<sup>72</sup> In addition, states must undertake prevention measures to prevent TfGBV, including raising awareness about this issue and establish services to stop the violation of the right to live free from gender-based violence.<sup>73</sup> In doing so, it is fundamental to take into account, with an intersectional approach, the ways in which race or ethnic backgrounds, as well as socio-economic status can shape specific experiences of TfGBV in varying contexts.<sup>74</sup>

The right to live free from gender-based violence is indivisible from and interdependent on other human rights, including but not limited to the rights to privacy, freedom of expression, freedom of peaceful assembly and freedom of association.<sup>75</sup> The freedom from gender-based violence is essential for all, especially women and LGBTI people, to fully enjoy these rights.

## RIGHT TO PRIVACY

The right to privacy is enshrined in Article 12 of the UDHR. Article 17 of the ICCPR further provides that “no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence,” and that “everyone has the right to the protection of the law against such interference or attacks”.<sup>76</sup> Additionally, as established by the CEDAW, states are obliged to guarantee women equal enjoyment of all human rights and fundamental freedoms.<sup>77</sup>

International law and standards require that any state interference with the right to privacy, including digital surveillance operations, must be lawful, necessary and proportionate.<sup>78</sup> It must serve a legitimate aim and be subject to safeguards adequate to prevent abuse, such as being subject to judicial oversight for a defined purpose and period.<sup>79</sup> Furthermore, any limitation on the right to privacy must comply with the principle of non-discrimination and other rights recognized under international law.<sup>80</sup> Where the limitation does not meet these criteria it is unlawful and/or arbitrary.<sup>81</sup>

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68 CEDAW, General recommendation No. 35 (previously cited), para 12.

69 United Nations High Commissioner for Human Rights, Report on discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, 17 November 2011, A/HRC/19/41, para 20, [https://www.ohchr.org/sites/default/files/Documents/Issues/Discrimination/A.HRC.19.41\\_English.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Discrimination/A.HRC.19.41_English.pdf)

70 SR on VAW, Report on online violence against women and girls from a human rights perspective (previously cited), para 22.

71 SR on VAW, Report on online violence against women and girls from a human rights perspective (previously cited), para 67.

72 CEDAW, General recommendation No. 35 (previously cited), para 9.

73 Special Rapporteur on violence against women, its causes and consequences, Report on online violence against women and girls from a human rights perspective, (previously cited), para 66.

74 CEDAW, General recommendation No. 35 (previously cited), para 12.

75 CEDAW, General recommendation No. 35 (previously cited), para 15.

76 International Covenant on Civil and Political Rights (ICCPR), Article 17.

77 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Article 2. Thailand is a state party since 1985, see: UN Treaty Body Database, [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=172&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=172&Lang=EN)

78 ICCPR, Article 19. Human Rights Committee, General Comment No. 34 on Article 19: Freedoms of opinion and expression, 12 September 2011, UN Doc. CCPR/C/GC/34, <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

79 Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Report on surveillance and human rights, 28 May 2019, UN Doc. A/HRC/41/35, [www.undocs.org/A/HRC/41/35](http://www.undocs.org/A/HRC/41/35) para. 50(c).

80 UN High Commissioner for Human Rights (OHCHR), The Right to Privacy in the Digital Age, 30 June 2014, UN Doc. A/HRC/27/37, [digitallibrary.un.org/record/777869?ln=en](http://digitallibrary.un.org/record/777869?ln=en), paras 22-23.

81 OHCHR, The Right to Privacy in the Digital Age (previously cited).

*“no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence,” and that “everyone has the right to the protection of the law against such interference or attacks.”*

According to IHRL, the legitimate aim of surveillance may include the “protection of people’s lives or bodily integrity and the security of critical infrastructure”.<sup>82</sup> However, it is not permissible under international law to use surveillance for the purpose of tracking dissidents, HRDs and members of marginalized communities based on their exercise of human rights, or protected characteristics.<sup>83</sup>

The full enjoyment of the right to privacy must be protected for every person, irrespective of their SOGIESC. In 2020, the UN Special Rapporteur on the right to privacy expressed that, after a worldwide consultation process, it was clear that “[g]ender and factors such as ethnicity, beliefs, culture, social origins, age, economic self-sufficiency and legal and political frameworks serve to mould experiences of privacy”.<sup>84</sup> An increasing body of work in feminist theory also shows the interconnection between “bodily sovereignty and data sovereignty” and highlights that, as the separation between physical and digital spaces is increasingly undefined, the experiences of gender-based violence in one space can mirror, or have ripple effects on, the other.<sup>85</sup> To address these discriminatory impacts of the violation of the right to privacy, states should take any necessary measures to prevent, investigate and punish the breaches of privacy that resulted in gendered impacts.<sup>86</sup>

The right to privacy underpins other key rights for civic participation, such as freedom of expression and freedom of peaceful assembly and association. The UN High Commissioner for Human Rights emphasizes that:

***“Even the mere possibility of communications information being captured creates an interference with privacy, with a potential chilling effect on rights, including those to free expression and association. . . The onus would be on the State to demonstrate that such interference is neither arbitrary nor unlawful.”<sup>87</sup>***

82 OHCHR, The Right to Privacy in the Digital Age (previously cited), para. 50.

83 OHCHR, The Right to Privacy in the Digital Age (previously cited), para. 50.

84 United Nations Special Rapporteur on the right to privacy, Report of the Special Rapporteur on the right to privacy, 24 March 2020, UN Doc. A/HRC/43/52, <https://www.ohchr.org/en/documents/thematic-reports/ahrc4352-report-special-rapporteur-right-privacy> para. 19.c.

85 See, for example: GenderIT.org, *Global Attention to Technology-facilitated Gender-based Violence (TFGBV): Feminist Perspectives*, 24 August 2023, <https://genderit.org/edition/global-attention-technology-facilitated-gender-based-violence-tfgbv-feminist-perspectives>

86 <https://documents.un.org/doc/undoc/gen/g19/307/40/pdf/g1930740.pdf?token=2p4KvMJIOgJGCvUZst&fe=true> OHCHR, Privacy and technology from a gender perspective: report, 27 February 2019, UN Doc. A/HRC/40/63, <https://www.ohchr.org/en/documents/thematic-reports/ahrc4063-privacy-and-technology-gender-perspective-report> para. 108(e).

87 OHCHR, The Right to Privacy in the Digital Age (previously cited), para. 20.

## FREEDOM OF EXPRESSION, PEACEFUL ASSEMBLY AND ASSOCIATION

Freedom of expression is protected under international human rights instruments, such as Article 19 of the UDHR and Article 19 of the ICCPR. It includes seeking, receiving and imparting information and ideas across frontiers, regardless of form or media.<sup>88</sup> Its full enjoyment is fundamental for the existence of a free press and the work of HRDs and activists. In this sense, ideas protected under this right include those that may offend, shock or disturb.<sup>89</sup>

To comply with their obligations under IHRL, it is not enough for states not to interfere with the exercise of freedom of expression; it is also required that states promote adequate conditions for the full enjoyment of the right, including by lifting any barriers that may hinder expression.<sup>90</sup> In particular, states must actively eliminate “structural and systemic forms of gender discrimination” to protect freedom of expression “on a basis of equality.”<sup>91</sup>

Freedom of expression is not absolute. States may interfere with this right in pursuit of a legitimate aim recognized by international law, provided the interference is provided by law, necessary and proportionate.<sup>92</sup> One legitimate aim, as outlined in the ICCPR, is national security. For example, states may legitimately use certain kinds of spyware, provided that such a measure complies with the aforementioned requirements, which would require the presence of safeguards adequate to prevent abuse. Nonetheless, compelling evidence shows a widespread misuse of these technologies for illegitimate purposes, using “national security” as a blanket term to justify targeting critical voices, journalists, HRDs and even politicians.

Additionally, states are required to prohibit – though not necessarily criminalize – expression that amounts to advocacy of discriminatory hatred, hostility or violence.<sup>93</sup> Under CEDAW and other IHRL instruments, sex, gender, including expression and identity, and sexual orientation are protected categories from discrimination.<sup>94</sup> As noted by the UN Special Rapporteur on freedom of expression, since the rights to equality and freedom of expression, and the obligation of non-discrimination “are mutually reinforcing”, states must strive to protect and promote the speech of all, “especially those whose rights are often at risk, while also addressing the public and private discrimination that undermines the enjoyment of all rights.”<sup>95</sup>

Therefore, states must both ensure the rights of women and LGBTI people to be protected from violence and discrimination, and refrain from promoting content that incites violence or reproduces or reinforces gender discrimination.<sup>96</sup> Such content may include forms of gendered disinformation, smear campaigns, harassment, doxing and other forms of TfGBV – which, as this report evidences, are often used as forms of intimidation or reprisals against women and LGBTI people, particularly HRDs.

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88 UDHR, Article 19; ICCPR, Article 19.

89 See, for example: European Court of Human Rights, *Handyside v. the United Kingdom*, 1976, para. 49.

90 Human Rights Committee, General Comment No. 34 (previously cited).

91 United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 30 July 2021, UN Doc. A/76/258, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/212/16/PDF/N2121216.pdf?OpenElement> para. 51.

92 ICCPR, Article 19. Human Rights Committee, General Comment No. 34 (previously cited).

93 ICCPR, Article 20.

94 CEDAW, General recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19 (1992), 26 July 2017, UN Doc. CEDAW/C/GC/35, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no-35-2017-gender-based>; Comisión Interamericana de Derechos Humanos, *Avances y Desafíos hacia el reconocimiento de los derechos de las personas LGBTI en las Américas*, 2018, OEA/Ser.L/V/II.170 Doc. 184, <https://www.oas.org/es/cidh/informes/pdfs/LGBTI-ReconocimientoDerechos2019.pdf>

95 United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 9 October 2019, UN Doc. A/74/486, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/308/13/PDF/N1930813.pdf?OpenElement> para. 4.

96 United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Gendered disinformation and its implications for the right to freedom of expression, 7 August 2023, UN Doc. A/78/288, <https://www.ohchr.org/en/documents/thematic-reports/a78288-gendered-disinformation-and-its-implications-right-freedom>

This recognition is also significant in light of the obligations of Thailand in regard to HRDs, particularly under the UN Declaration on Human Rights Defenders of 1998,<sup>97</sup> which sets out rights and obligations that are provided for under IHRL. Article 1 states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels”.<sup>98</sup> Therefore, states must ensure a safe and enabling environment for the exercise of the right to defend human rights, including the right to freedom of association.



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Women and LGBTI HRDs face additional complex risks both because of their work and their gender and/or sexual orientation, necessitating increased protection. For instance, the UN Special Rapporteur on the situation of human rights defenders presented an observation in a report to the Human Rights Council on child and youth HRDs that at the global level, young defenders, especially women and girls, often faced “gendered attacks online” to “harass, control, blackmail or humiliate” them.<sup>99</sup> The UN Declaration on Women Human Rights Defenders of 2013 calls on all states, including Thailand, to take positive steps to provide adequate, gender-sensitive protection to women and girls as they exercise their right to defend human rights, often to challenge and resist systemic gender-based violence and discrimination.<sup>100</sup> Similarly, states must also tackle the adverse conditions that LGBTI HRDs face and ensure their protection.<sup>101</sup>

Undue restrictions on freedom of expression jeopardize the enjoyment of other rights, such as freedom of peaceful assembly. This right, enshrined in Article 21 of the ICCPR and other regional treaties and declarations,<sup>102</sup> protects the individual’s ability to gather non-violently with others. In this sense, freedom of peaceful assembly is “an individual right that is exercised collectively”,<sup>103</sup> and its exercise can also involve freedom of expression, such as communicating a stance on issues of public interest or exchanging ideas.<sup>104</sup>

Protected assemblies include any peaceful gathering of two or more individuals regardless of place, whether they happen online, offline or a mix of both, in public or private spaces, and can serve many purposes.<sup>105</sup> In other words, it is well established that the right of peaceful assembly can be exercised both in offline and online spaces. As such, participation in and organization of online assemblies,

97 This Declaration was adopted by consensus in 1998 by the United Nations General Assembly, which included Thailand as a member state of the UN. See: United Nations Special Rapporteur on HRDs, “Declaration on HRDs”, <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders/declaration-human-rights-defenders>

98 UN General Assembly, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 9 December 1998, UN Doc. A/RES/53/144.

99 United Nations Special Rapporteur on the situation of human rights defender, “We are not just the future”: challenges faced by child and youth human rights defenders, 17 January 2024, UN Doc. A/HRC/55/50, <https://documents.un.org/doc/undoc/gen/g23/267/64/pdf/g2326764.pdf?token=IP7RQMbp7iyzN556uR&fe=true>, paras 43-44.

100 UN General Assembly, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women HRDs : resolution / adopted by the General Assembly, 18 December 2013, UN Doc. A/RES/68/181, <https://digitallibrary.un.org/record/764453/?ln=es>

101 Joint statement by UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity and UN Special Rapporteur on the situation of human rights defenders, 24 March 2022, <https://www.ohchr.org/en/statements/2022/03/defenders-human-rights-lgbt-persons-constantly-risk-warn-un-experts>

102 UDHR, Article 20; ICCPR, Article 21; American Convention on Human Rights, Article 15; European Convention on Human Rights, Article 11.

103 Human Rights Committee, General Comment No.37 (2020) on the right of peaceful assembly (article 21), 17 September 2020, UN Doc. CCPR/C/GC/37, 17 September 2020, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-37-article-21-right-peaceful-para-4>.

104 Human Rights Committee, General Comment No. 37 (previously cited).

105 Human Rights Committee, General Comment No. 37 (previously cited), para. 6.

where these engage the right to freedom of expression and/or can be said to constitute a peaceful assembly, are protected under IHRL.<sup>106</sup> The scope of the right of peaceful assembly includes the act of assembling and the activities necessary to organize assemblies (before, during and after they occur), such as using the internet and other communication technologies to mobilize wider participation.<sup>107</sup>

From this interpretation it follows that the unlawful targeting and surveillance of organizers and participants of peaceful protests could not only be a violation of their rights to privacy and freedom of expression, but also a direct violation of their right to freedom of peaceful assembly, as an undue interference with the exercise of this right.<sup>108</sup> Therefore, the use of spyware, understood as systems that can allow covert interception of communications, geolocations and other forms of the targets' data, may directly violate the freedom of peaceful assembly when it relates to activities and participants associated with an assembly, as outlined above.

Under IHRL, states must respect, protect and fulfil the right to peaceful assembly without discrimination of any kind.<sup>109</sup> Although, like the other rights outlined before, freedom of peaceful assembly can be restricted, authorities must ensure that any intervention is provided for by law, necessary, proportionate to the legitimate aim sought, and does not create conditions that may hinder the right itself.<sup>110</sup> States also have a positive obligation to facilitate the right to peaceful assembly in law and in practice.<sup>111</sup> These obligations include not imposing unwarranted limitations to the planning and convening of the assembly and refraining from restricting organizers or participants without a legitimate cause.<sup>112</sup> Such measures can cause a chilling effect by discouraging participation in assemblies, thus violating the right.<sup>113</sup>

A state can legitimately interfere with the right to freedom of peaceful assembly due to national security concerns. Although national security is indeed a legitimate ground under Article 21 of the ICCPR and other instruments, it must not be used as a blanket reason. For any interference, the onus is on the state to demonstrate the existence of conditions that reasonably challenge "the State's capacity to protect the existence of the nation, its territorial integrity or political independence against a credible threat or use of force".<sup>114</sup>

The UN Human Rights Committee has stated that there is a presumption that peaceful assemblies would only exceptionally meet this threshold;<sup>115</sup> thus, national security could only be legally used to restrict this right under special circumstances. Discomfort, shock or offence caused by the assembly to the authorities or private actors can hardly fit this description: in fact, the disruption of movement or economic activity as part of a protest do not annul the protections that this right provides to organizers and participants.<sup>116</sup> It is reasonable to infer that using digital tools to take actions in the context of a protest, such as taking over a trending hashtag or creating a group to share ideas and coordinate events, would also enjoy a similar level of protection.

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106 Human Rights Committee, General Comment No. 37 (previously cited), para. 13.

107 Human Rights Committee, General Comment No. 37 (previously cited), para. 10.

108 Human Rights Committee, General Comment No. 37 (previously cited), para. 61.

109 ICCPR, Article 21.

110 Human Rights Committee, General Comment No. 37 (previously cited).

111 ICCPR, Article 21. See also: UN Special Rapporteur, Celebrating women in activism and civil society: The enjoyment of the rights to freedom of peaceful assembly and of association by women and girls, 20 July 2020, UN Doc. A/75/184, <https://documents.un.org/doc/undoc/gen/n20/188/33/pdf/n2018833.pdf?token=x1fse7h5oK6QF1r0jd&fe=true>

112 Human Rights Committee, General Comment No. 37 (previously cited) para. 23.

113 Human Rights Committee, General Comment No. 37 (previously cited) para. 23.

114 Human Rights Committee, General Comment No. 37 (previously cited) para. 42.

115 "Moreover, where the very reason that national security has deteriorated is the suppression of human rights, this cannot be used to justify further restrictions, including on the right to freedom of peaceful assembly." Human Rights Committee, General Comment No. 37 (previously cited), para. 42.

116 Human Rights Committee, General Comment No. 37 (previously cited), para. 7.



ALTHOUGH NATIONAL SECURITY IS INDEED A LEGITIMATE GROUND UNDER ARTICLE 21 OF THE ICCPR AND OTHER INSTRUMENTS,



## IT MUST NOT BE USED AS A BLANKET REASON

Due to their interdependence, the guarantee of each of these freedoms is a condition for the enjoyment of the other. In other words, the fulfilment of the rights to freedom of expression and assembly, as well as the right to privacy, are fundamental conditions to meaningful participation in political, economic, social and cultural life.

### RIGHT TO AN EFFECTIVE REMEDY

States are also required to ensure that individuals whose rights have been violated by TfGBV have access to remedy. The right to an effective remedy has been recognized under various international and regional human rights treaties and instruments,<sup>117</sup> including the UDHR, the ICCPR, the CEDAW and the CAT, also applicable in Thailand.<sup>118</sup> It is, moreover, a rule of customary international law.<sup>119</sup>

Under IHRL, Thailand has a duty to create an accountability framework that provides equal and effective access to justice for all; establishes mechanisms for effective, prompt, thorough and impartial investigations, including access to relevant information; and offers adequate, prompt and effective reparations including non-repetition guarantees.<sup>120</sup> Effective remedies can include compensation for physical or mental harm, rehabilitation including medical and psychological care, and legal and social services. Survivors should also be provided with satisfaction through measures such as effective investigations and prosecution of the perpetrators or public acknowledgement of the facts and acceptance of responsibility and guarantees of non-repetition, through actions or reforms to prevent future abuses.<sup>121</sup>

117 UDHR, Article 8; ICCPR, Article 2(3); International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 2; International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Article 6; CEDAW, Article 2; CAT, Article 14; European Convention on Human Rights, Article 13; American Convention on Human Rights, Article 25; African Charter on Human and Peoples' Rights, Article 7(1)(a); Charter of Fundamental Rights of the European Union, Article 47; Arab Charter on Human Rights, Articles 12 and 23; UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 21 March 2006, UN Doc. A/RES/60/147, among others.

118 Thailand ratified CAT in 2007. See: UN Treaty Database, [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=172&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=172&Lang=EN)

119 See: International Criminal Tribunal for Rwanda, *Prosecutor v. André Rwamakuba*, Case No. ICTR-98-44C, Decision on Appropriate Remedy, para. 40 (31 January 2007); International Criminal Tribunal for Rwanda, *Prosecutor v. André Rwamakuba*, Case No. ICTR-98-44C-A, Decision on Appeal Against Decision on Appropriate Remedy, paras 23-25 (13 September 2007); and Inter-American Court of Human Rights, *Cantoral-Benavides v. Perú*, 2001. (ser.C) No. 88, at para. 40.

120 See: Corte IDH. Cuadernillos de Jurisprudencia de la Corte Interamericana de Derechos Humanos No. 13: Protección Judicial, 2021, [https://www.corteidh.or.cr/sitios/libros/todos/docs/cuadernillo13\\_2021.pdf](https://www.corteidh.or.cr/sitios/libros/todos/docs/cuadernillo13_2021.pdf); Antônio A. Cançado Trindade, *El derecho de acceso a la justicia internacional y las condiciones para su realización en el sistema interamericano de protección de los derechos humanos*, Presentación del Presidente de la Corte Interamericana de Derechos Humanos, Juez Antônio A. Cançado Trindade, ante el Consejo Permanente de la Organización de los Estados Americanos (OEA), Washington, D.C., OEA/Ser.GCP/doc.3654/02, 2002, <https://www.corteidh.or.cr/tablas/r08066-2.pdf>

121 See: Corte IDH. Cuadernillos de Jurisprudencia de la Corte Interamericana de Derechos Humanos No. 13: Protección Judicial (previously cited); Antônio A. Cançado Trindade, *El derecho de acceso a la justicia internacional y las condiciones para su realización en el sistema interamericano de protección de los derechos humanos* (previously cited).

## 4.1.2 THE CORPORATE RESPONSIBILITY TO PROTECT HUMAN RIGHTS

Companies have a responsibility to respect human rights wherever they operate in the world, as established by the UN Guiding Principles on Business and Human Rights (the UN Guiding Principles).<sup>122</sup> Thus, companies have an active role to play: on the one hand, they should take proactive steps to ensure that they do not cause or contribute to human rights abuses across any of their operations; and on the other hand, they must respond to any human rights abuses if and when they do occur.<sup>123</sup>

A key part in fulfilling that responsibility is the adequate implementation of ongoing human rights due diligence, based on identifying, preventing, mitigating and accounting for the impact that the business has or may have on human rights, using a risk-based approach.<sup>124</sup> Business enterprises may be involved with adverse human rights impacts either through their own activities or as a result of their business relationships with other parties.

To understand such risks to human rights, companies must also adopt an intersectional understanding of discrimination and its particular manifestations in the contexts they operate within or have links to.<sup>125</sup> Thus, businesses “should respect the human rights of individuals belonging to specific groups or populations that require particular attention, where they may have adverse human rights impacts on them”.<sup>126</sup>

These specific groups, as derived from IHRL, include women and LGBTI people. Therefore, companies’ human rights due diligence policies and implementation should include establishing adequate mechanisms to address gender-based violence connected to their value chain, including TfGBV.<sup>127</sup> For surveillance, telecommunications and Big Tech companies, the latter assumes even greater precedence, as online harassment, doxing, smear campaigns and other forms of TfGBV can be facilitated by the tools deployed as part of their business models.<sup>128</sup>

### UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS (THE UN GUIDING PRINCIPLES)



*Companies have a responsibility to respect human rights wherever they operate in the world.*

122 UN Guiding Principles, Principle 11. This responsibility was expressly recognized by the UN Human Rights Council on 16 June 2011, when it endorsed the UN Guiding Principles, and on 25 May 2011 when the 42 governments that had then adhered to the Declaration on International Investment and Multinational Enterprises of the OECD unanimously endorsed a revised version of the OECD Guidelines for Multinational Enterprises. See Human Rights Council, Human Rights and Transnational Corporations and other Business Enterprises, Resolution 17/4, 6 July 2011, UN Doc A/HRC/RES/17/4, [daccess-ods.un.org/tmp/638279.914855957.html](https://www.un.org/odhhr/documents/publications/guidingprinciplesbusinesshr_en.pdf)

123 UN Guiding Principles, Principle 11, including Commentary, [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf)

124 UN Guiding Principles, Principle 11.

125 UN Guiding Principles, Principle 12.

126 UN Guiding Principles, Principle 12.

127 CEDAW, General recommendation No. 35 (previously cited), paras 20 and 24.

128 Commission on the Status of Women, Sixty-seventh session, Agreed conclusions, Innovation and technological change, and education in the digital age for achieving gender equality and the empowerment of all women and girls, 20 March 2023, UN Doc. E/CN.6/2023/L.3, <https://documents.un.org/doc/undoc/lttd/n23/081/71/pdf/n2308171.pdf?token=yC39b9kGNepa09hbzX&fe=true>

Where a company identifies through due diligence that it may cause or contribute to a human rights abuse, it must cease or prevent its contribution to the adverse impact and, where applicable, use its leverage to mitigate any remaining impact to the greatest extent possible.<sup>129</sup> If a company has contributed to or caused a negative human rights impact, then it must provide remedy to those who have suffered the harm.<sup>130</sup>

## 4.2 THAILAND'S LEGAL FRAMEWORK

The Constitution of Thailand guarantees the “rights and liberties of the Thai people” under Chapter III. The chapter includes a wide range of rights, such as the right to non-discrimination (Section 27), the right to privacy (Section 32), the right to freedom of expression (Section 34) and the right to peaceful assembly (Section 44).<sup>131</sup>

Despite the existing constitutional provisions, Thailand’s domestic law lacks a robust framework for protecting women and LGBTI people from TfGBV in line with IHRL. While Thailand has adopted a law on combating gender-based discrimination, its application includes exemptions for discrimination committed in the name of religion or national security. Meanwhile, the Thai government has proactively used existing cyber laws to prosecute online expressions by critics and provides no human rights-compliant legal safeguards for preventing the violation of the right to privacy.

### 4.2.1 LAW ON GENDER-BASED DISCRIMINATION

Gender-based discrimination is illegal in Thailand under the 2015 Gender Equality Act (GEA). The law aims to combat “unjust discrimination between sexes” defined as “any act or omission which unfairly divides, excludes, or limits one’s rightful benefits directly or indirectly on the grounds that one is male, female or express themselves differently from their sex assigned at birth”.<sup>132</sup> The Department of Women’s Affairs and Family Development (DWAFFD) within the Ministry of Social Development and Human Security (MSDHS) plays a key role in providing administrative and academic support for activities carried out under this law.<sup>133</sup>

The GEA set up the Committee on the Determination of the Unfair Gender Discrimination (CDUGD) tasked to investigate complaints of gender-based discrimination and issue orders for state or non-state entities to cease and prevent discriminatory acts and provide compensation for survivors of such acts.<sup>134</sup> While the CDUGD could have been a useful mechanism for addressing TfGBV, it contains a significant gap inconsistent with IHRL. Section 17(2) of the GEA allows for exemptions in cases where such discriminatory acts are carried out “for eliminating obstacles or promoting individuals to enjoy the same rights and freedoms as others, for protecting the welfare and safety of a person, for following religious practices, or for security of the nation”.<sup>135</sup> The CDUGD is therefore unable to take up cases falling under this exemption.

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129 UN Guiding Principles, Principles 17 and 19.

130 UN Guiding Principles, Principle 15(c).

131 Thailand, Constitution of Thailand (2017), <https://www.wipo.int/wipolex/en/text/585448>, Chapter III.

132 Thailand, Gender Equality Act (2015), <https://www.ratchakitcha.soc.go.th/DATA/PDF/2558/A/018/17.PDF>, Section 3.

133 Thailand, Gender Equality Act (2015) (previously cited), Section 16.

134 Thailand, Gender Equality Act (2015) (previously cited), Sections 14 and 20.

135 Thailand, Gender Equality Act (2015) (previously cited), Section 17.

In July 2017, the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) raised concerns that the GEA does not apply in the SBPs where special national security laws are in place purportedly to curb insurgent activities.<sup>136</sup> The laws in question are the Martial Law Act, the Emergency Decree and the Internal Security Act. The CEDAW Committee also noted concerns around the exemptions provided under Section 17(2) of the GEA which allows gender-based discrimination on grounds of religious principles and national security.<sup>137</sup>

The Thai government received recommendations from the CEDAW Committee to lift these exemptions, given that the principle of non-discrimination is non-derogable.<sup>138</sup> However, the government has not followed this recommendation. Thailand has not yet adopted comprehensive anti-discrimination legislation which protects individuals from other forms of discrimination, for example, on grounds of colour, descent, national origin, religion or socio-economic status.

## 4.2.2 LAWS CRIMINALIZING ONLINE EXPRESSION

Internet users, including women and LGBTI HRDs, can face the criminalization of their online expression if it is considered to be critical of the government or the monarchy. The three main laws widely used to prosecute critics are Articles 112 (lèse-majesté) and 116 (sedition) of Thailand's Criminal Code, and the CCA.

The lèse-majesté law criminalizes anyone who “defames, insults or threatens the King, the Queen, the Heir-apparent or the Regent”.<sup>139</sup> Anyone found guilty of this offence can be punished with a term of imprisonment of between three and 15 years.<sup>140</sup>

The sedition law prohibits anyone from using words, writings and other means to “bring about a change in the Laws of the Country or the Government by the use of force or violence”; “raise unrest and disaffection amongst the people in a manner likely to cause disturbance in the country”; and “cause the people to transgress the laws of the Country.”<sup>141</sup> Individuals found guilty of this offence can be imprisoned for up to seven years.<sup>142</sup>

Section 14 of the CCA criminalizes the dissemination of four categories of data into the digital realm: “false” or “distorted” information “in a manner that is likely to cause damage to the public”; “false computer data in a manner that is likely to damage the maintenance of national security, public safety, national economic security or public infrastructure serving national public interest or cause panic in the public”; “any computer data of a pornographic nature that is publicly accessible”; and “any computer data which is an offence about the security of the Kingdom or is an offence about terrorism”.<sup>143</sup> Forwarding or sharing content that violates Article 14 of the CCA is also a criminal offence.<sup>144</sup> Any person found to have violated these provisions can be liable to up to five years in prison and fined up to 100,000 Thai baht (approximately US\$2,766).<sup>145</sup>

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136 CEDAW, Concluding observations on the combined sixth and seventh periodic reports of Thailand, 24 July 2017, UN Doc. CEDAW/C/THA/CO/6-7, para. 8(b).

137 CEDAW, Concluding observations on the combined sixth and seventh periodic reports of Thailand (previously cited), para. 8(a).

138 CEDAW, Concluding observations on the combined sixth and seventh periodic reports of Thailand (previously cited), para. 9.

139 Thailand, Criminal Code, <https://www.thailandlawonline.com/laws-in-thailand/thailand-criminal-law-text-translation#chapter-1>, Article 112.

140 Thailand, Criminal Code (previously cited), Article 112.

141 Thailand, Criminal Code (previously cited), Article 116.

142 Thailand, Criminal Code (previously cited), Article 116.

143 Thailand, Computer Crimes Act (promulgated in 2007, amended in 2017), <https://www.mdes.go.th/law/detail/3618-COMPUTER-RELATED-CRIME-ACT-B-E--2550--2007->, Section 14.

144 Thailand, Computer Crimes Act (previously cited), Section 14.

145 Thailand, Computer Crimes Act (previously cited), Section 14.



Online expression can also be restricted through defamation, which is an offence under the Criminal Code in Thailand. Key provisions used to regulate online expression include Sections 326 and 328 of the Criminal Code.<sup>146</sup>

Many UN human rights bodies and experts have raised concerns about the use of these laws to criminalize the exercise of freedom of expression in Thailand due to their incompatibility with IHRL and standards, including the ICCPR.<sup>147</sup> The UN Human Rights Committee, for example, stated that “imprisonment is never an appropriate penalty” for defamation-related offences, including lèse-majesté.<sup>148</sup>

### 4.2.3 LAWS GOVERNING DIGITAL PRIVACY

In Thailand, a series of laws passed after the 2014 coup, including the CCA, the Personal Data Protection Act (PDPA), the Cybersecurity Act (CSA) and the National Intelligence Act (NIA), served to strengthen the government’s power to exercise control over digital spaces by granting expansive discretion to Thai authorities when monitoring online activities and accessing private data, providing no robust human rights safeguards.

The CCA grants sweeping surveillance powers to Thai authorities to prosecute. The absence of court oversight in the process of requesting user or computer traffic data empowers authorities with unchecked digital search powers.<sup>149</sup>

146 Section 326 prohibits “[imputing] anything to the other person before a third person in a manner likely to impair the reputation of such other person or to expose such other person to be hated or scorned” with a maximum sentence of one year’s imprisonment and/or a 20,000 Thai baht fine. Section 328 prohibits committing defamation “by means of publication of a document, drawing, painting, cinematography film, picture or letters made visible by any means, gramophone record or other recording instruments, recording picture or letters, or by broadcasting or spreading picture, or by propagation by any other means” and carries a penalty of imprisonment not exceeding two years and fine not exceeding 200,000 Thai baht. iLaw, “The Criminal Defamation laws as common tool to ‘silent’ expression”, 1 January 2021, <https://freedom.ilaw.or.th/en/blog/criminal-defamation-laws-common-tool-%E2%80%99silent%E2%80%99-expression>

147 See examples of the UN’s comments on these laws at OHCHR, UN Human Rights Office calls on Thailand to end arbitrary arrests and detentions of political activists, 4 May 2017, <https://bangkok.ohchr.org/news-release-un-human-rights-office-calls-on-thailand-to-end-arbitrary-arrests-and-detentions-of-political-activists/>; UN Special Rapporteurs, Letter to the Thai government, 22 December 2017, UN Doc. UA THA 7/2017, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23525>; and UN, Thailand: UN rights office deeply troubled by treason charges for protestors, 18 December 2020, <https://news.un.org/en/story/2020/12/1080382>

148 UN Human Rights Committee, General Comment No. 34 (previously cited), para. 47.

149 Thailand: Computer Crimes Act (previously cited), Article 19.

The PDPA provides key privacy safeguards for the collection, use and disclosure of personal data. However, it does not apply to “public authorities having the duties to maintain state security”.<sup>150</sup> This broad exemption may lead to intrusive state surveillance of personal data of activists, HRDs and dissidents in the name of national security.

The CSA established the Cybersecurity Regulating Committee (CRC), chaired by the Ministry of Digital Economy and Society (MDES), with a mandate to respond to cyber threats. The CRC can “access the computer data, computer system, or other data related to the computer system, copy, or filter/screen information data or computer program which has a reason to believe that is related to or affected by the Cyber Threat” and “seize or freeze a computer, a computer system, or any equipment, only to the extent it is necessary, which has a reason to suspect that is related to the Cyber Threat for the examination or analysis, for not more than thirty days”.<sup>151</sup> In cases of a cyber threat judged to be of a critical or crisis level, the committee also has the power to “request real-time information from a person related to the Cyber Threat”. No prior authorization from the court is required, and persons who receive the CRC’s request for both categories of cyber threats have no right to appeal.<sup>152</sup> Non-compliance can result in up to three years’ imprisonment and a fine of up to 100,000 Thai baht (approximately US\$2,766) depending on the severity of the cyber threat.<sup>153</sup>

Meanwhile, the NIA established the National Intelligence Agency, which is tasked to carry out activities concerning “intelligence operations, counter-intelligence, communication intelligence operations and civilian security”.<sup>154</sup> Section 6 of the law broadly empowers the NIA to “request any government agency or any person to submit information or documents which have an impact to the national security within a time period determined by the Director [of the agency]”.<sup>155</sup> The agency may also use any means necessary, which includes “electronic, scientific, telecommunication devices or other technologies,” to obtain such information.<sup>156</sup> No judicial authorization is required.<sup>157</sup> Similar to the PDPA and the CSA, such vaguely worded provisions in the NIA could result in expanding unchecked surveillance powers by the authorities.

Under these laws, digital surveillance is authorized to take place without a robust framework for safeguarding human rights, especially the right to privacy. As the case studies in the chapters below will illustrate, the absence of legal and regulatory safeguards has rendered women and LGBTI HRDs vulnerable to arbitrary interference with their privacy in the form of targeted digital surveillance.

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150 Thailand, Personal Data Protection Act (2019), <https://www.mdes.go.th/law/detail/1905-Personal-Data-Protection-Act--B-E--2562--2019->, Section 6.

151 Thailand, Cybersecurity Act (2019), <https://www.mdes.go.th/law/detail/3572-Cybersecurity-Act-B-E-2562--2019-> Section 66.

152 Thailand, Cybersecurity Act (previously cited), Sections 68-69.

153 Thailand, Cybersecurity Act (previously cited), Sections 75-76.

154 Thailand, National Intelligence Act, [https://data.opendevlopmentmekong.net/en/laws\\_record/national-intelligence-act-b-e-2562-2019](https://data.opendevlopmentmekong.net/en/laws_record/national-intelligence-act-b-e-2562-2019) Section 5.

155 Thailand, National Intelligence Act (previously cited), Section 6.

156 Thailand, National Intelligence Act (previously cited), Section 6.

157 *iLaw*, “สำรวจและเปรียบเทียบกฎหมายที่ให้อำนาจรัฐ“สอดส่อง”ประชาชน 4 ฉบับ, 30 May 2019, <https://www.ilaw.or.th/articles/3540>

# 5. TECHNOLOGY-FACILITATED GENDER-BASED VIOLENCE IN THAILAND

***“Digital technology is really important for activism, but at the moment, it’s not a safe space for LGBTI persons and women at all.”<sup>158</sup>***

Nitchakarn Rakwongrit, non-binary HRD and young feminist activist

Digital technology supports women and LGBTI people to carry out their activism and helps them to navigate a highly restrictive offline civic space. Nonetheless, Amnesty International’s findings indicate that the digital space is not always safe for women and LGBTI HRDs in Thailand where many of them encounter two forms of TfGBV: targeted digital surveillance and online harassment. This research found that TfGBV is rooted in gendered inequalities and asymmetrical power structures in the civic space. Further, the HRDs were not able to seek accountability for the harms they suffered from TfGBV.

## 5.1 SITUATING TFGVB

TfGBV is a part of a continuum of gender-based violence that is perpetrated against women and LGBTI people in both offline and digital spaces, that is rooted in and reproduces gender inequality, power asymmetry and harmful gender norms and stereotypes. In the context of Thailand, TfGBV is linked with the government’s repression in the civic space and the society’s hetero-patriarchal norms that marginalize women and LGBTI people who undertake activism related to human rights. As described by former student activist and young woman HRD Niraphorn Onnkhaow,

***“We saw a prominent rise of women and LGBTI people in protests because we understand all too well what it means to be oppressed – not just from the government’s restrictions on our expressions but also from the society’s gender norms.”<sup>159</sup>***

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158 Interview in person with Nitchakarn Rakwongrit, non-binary HRD and youth feminist activist, 28 August 2023, Bangkok.

159 Interview in person with Niraphorn Onnkhaow, woman HRD and former member of the UFTD, 13 November 2023, Bangkok.

The Thai government's systematic repression of the civic space plays an important role in justifying state violence against those involved in peaceful activism and protests, including women and LGBTI HRDs. The ability of women and LGBTI people to express themselves and to engage in protests in both physical and digital spaces is heavily constrained by the practices of criminalization, arbitrary arrest and detention, intimidation, harassment and surveillance by the Thai authorities. Pro-democracy activist Patcharadanai Rawangsub, who identifies as a gay man, told Amnesty International: "We all know that for activists in Thailand, we can be prosecuted very easily, even, for example, through one piece of digital evidence showing that you are part of the protest movement."<sup>160</sup>

Women and LGBTI people also experienced unique forms of discrimination based on their SOGIESC when subjected to repression of their human rights activism. In previous research, Amnesty International has found that young LGBTI HRDs prosecuted for their activism received intrusive and insensitive questions about their sexual orientation during a mandatory session at the court's counselling center.<sup>161</sup> A transgender woman HRD, Panan, told Amnesty International that a fellow transgender woman activist had faced harassment and discriminatory treatment in a male prison.<sup>162</sup> In many cases, incarcerated women and LGBTI HRDs and activists reported having suffered from overcrowding in prisons.<sup>163</sup>

The existence and institutionalization of hetero-patriarchal norms in Thailand further marginalized the HRDs and justified discrimination and violence based on SOGIESC against them. These norms have shaped the widespread societal perception that women and LGBTI people are ill-suited for leadership roles in public affairs, including activism. For example, women are often considered "weak, indecisive, emotional, dependent, and less productive than men".<sup>164</sup> Meanwhile, transgender women and gay men are often stereotyped as "emotional", "sex-crazed" or "funny".<sup>165</sup>

For instance, prominent protest leader Panusaya Sithijirawattanakul shared her experience of persisting barriers for women within the male-dominated protest movement: "As a woman, it felt really empowering to be able to stand in front of thousands of people and give a speech to mobilize people for changes. Still, I had to deal with many male activists who doubted that [a woman] could also be a leader for the movement."<sup>166</sup>

The dominance and privileging of religious views that are hostile to LGBTI people and to public expressions of SOGIESC also resulted in violence against LGBTI people, including HRDs, within the Muslim community. Through interviews with 12 women and LGBTI HRDs in the Muslim-majority SBPs, where general attitudes towards LGBTI people are hostile, Amnesty International documented that they had each experienced social isolation, physical assaults, public humiliation and threats of violence by teachers, parents and other members of their religious communities due to public expressions of their SOGIESC.<sup>167</sup>

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160 Interview with Patcharadanai Rawangsub, 23 November 2023

161 Amnesty International, "*We Are Reclaiming Our Future*" (previously cited).

162 Interview by voice call with Panan, queer transgender woman HRD, 12 December 2023. See details of the case Panan referred to at <https://tlhr2014.com/archives/59992>

163 See reports of overcrowding in prisons from activists held in women's prisons at <https://tlhr2014.com/archives/65372> and <https://tlhr2014.com/archives/54806> In one specific case in the second article, a gay activist reported an experience of overcrowding in a room allocated for gay and queer men and transgender women in a men's prison.

164 Duanghathai Buranajaroenkij, "Civil Society and Gender Advancement in Thailand" in Duanghathai Buranajaroenkij, *Routledge Handbook of Civil and Uncivil Society in Southeast Asia*, 28 February 2023, <https://www.taylorfrancis.com/chapters/oa-edit/10.4324/9780367422080-16/civil-society-gender-advancement-thailand-duanghathai-buranajaroenkij>, p. 207.

165 Khao Sod English, "Mainstream media trades in worst LGBT stereotypes, review found", 2 December 2015, <https://www.khaosodenglish.com/life/2015/12/02/1449059474/>

166 Interview in person with Panusaya Sithijirawattanakul, woman HRD and protest leader, 23 August 2023, Bangkok.

167 Group interviews in person with 12 Malay Muslim women and LGBTI HRDs (full names withheld for security reasons), 24 August 2024, Pattani Province.



Muslim LGBTI HRDs struggled to pursue human rights activism. A gender non-conforming Muslim HRD who grew up in southern Thailand told Amnesty International:

***“If the overall Thai society can’t discuss the issue of the monarchy due to the lèse-majesté law, LGBTI rights have a similar status as a taboo within our Muslim society. There’s no legal punishment, but you will definitely face social sanctions if you speak out about this issue. The consequences are always cruel”<sup>168</sup>***

This statement resonates with testimony from gender equality campaigner Nada Chaiyakit, a practising Muslim. She told Amnesty International: “My family is happy with my activism. The only thing they asked from me is to refrain from working on two issues: the lèse-majesté law and LGBTI rights for Muslims.”<sup>169</sup>

Amnesty International notes that even though TfGBV is linked to offline violence against women and LGBTI people, it also has some unique characteristics, including the fact that it can be perpetrated with a significant amount of anonymity and without proximity to the survivor.<sup>170</sup> It can also take cross-jurisdictional forms, where perpetrators and survivors can be widely dispersed, including across different countries. Additionally, by its very nature, it allows abusive content to be easily amplified and remain in perpetuity.

TfGBV impacts all women, girls and LGBTI people. Nonetheless, those facing intersectional forms of discrimination and systemic marginalisation, including on the basis of disability, religion, caste, ethnicity, race, age, class, rural and urban setting, among others, may face particular and compounded forms of TfGBV.<sup>171</sup> Women, girls and LGBTI people in certain roles involving a higher degree of public engagement, including journalists, HRDs, and politicians, may face a higher risk of TfGBV.<sup>172</sup>

Being subjected to TfGBV can have numerous deleterious impacts on women, girls and LGBTI people, including amplification of harmful gender norms and stereotypes, being forced to reduce their online presence and participation, social isolation, economic and psychological harms including depression, anxiety and fear and loss of reputation. In many instances online threats and harassment can also translate into offline harms, including both verbal and physical attacks, arbitrary arrests and detentions and loss of employment. Some of these impacts have been documented in this and the following chapters.



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168 Interview by video call with a gender non-conforming HRD (real name withheld for security reasons), 9 January 2024.

169 Interview by video call with Nada Chaiyakit, intersex transgender HRD, 23 November 2023.

170 SR on VAW, Report on online violence against women and girls from a human rights perspective (previously cited), para 29.

171 Amnesty International's observation on the intersectional nature of TfGBV is similar to the observation of the UN Special Rapporteur on violence against women, its causes and consequences. However, in this report, the term “gender-based violence” applies not only to cisgender heterosexual women but also to LGBTI people. See more at SR on VAW, Report on online violence against women and girls from a human rights perspective (previously cited), para 28.

172 SR on VAW, its causes and consequences, Report on online violence against women and girls from a human rights perspective (previously cited), para 29.

## 5.2 FORMS OF TFGBV IN THAILAND

TfGBV can manifest in many different ways. Categories of TfGBV are constantly evolving with changes and strides in technology. The interviews conducted as part of this research indicate that women and LGBTI HRDs primarily suffer two forms of TfGBV: targeted digital surveillance and online harassment. In many cases, HRDs had faced both forms of TfGBV due to their activism.

TfGBV that results from targeted digital surveillance and online harassment may be due to intentionally discriminatory targeting, or because of the discriminatory effects experienced by survivors. In qualifying these forms of TfGBV, Amnesty International prioritizes identifying the unique impacts rather than the intent of the targeting. In these terms, the discriminatory effect of the targeted digital surveillance and online harassment is influenced by the existing prejudices, biases and structural barriers experienced by the targets due to their SOGIESC. This approach is in line with IHRL's interpretation of discrimination against women as a form of gender-based violence (see Chapter 4).

### 5.2.1 TARGETED DIGITAL SURVEILLANCE

One of the key forms of TfGBV identified by those interviewed by Amnesty International is targeted digital surveillance. Amnesty International defines targeted digital surveillance as a practice of monitoring or spying on specific persons and/or organizations, through digital technology, to interfere with their private data.<sup>173</sup>

By its nature, digital surveillance is extremely challenging to trace. Therefore, most targets never know that they have been subjected to such attacks. Accordingly, this sub-section presents two cases of digital surveillance where Amnesty International was able to document the targeting of women and LGBTI HRDs: the use of Pegasus spyware and attacks on individual Facebook accounts.

#### THE USE OF PEGASUS SPYWARE

Spyware is a type of malicious software that interferes with the normal operation of a device (phones, computers and other devices connected to the internet) without the user's knowledge or consent to collect information.<sup>174</sup> Pegasus spyware, developed by the Israel-based company NSO Group, allows unlimited access to the device and sends the information to another unauthorized entity without permission of the owner or operator, leaving little to no trace, so that the owner or operator of the device has almost no information as to what data was taken.<sup>175</sup> Amnesty International classifies Pegasus spyware as a form of highly invasive spyware, on the basis that it can neither be independently audited nor limited in its functionality.<sup>176</sup>

NSO Group states that its products and services are "used exclusively by government intelligence and law enforcement agencies to fight crime and terror".<sup>177</sup> However, this statement has been challenged by research from civil society organizations, including Amnesty International, who have found the spyware to have been used to target journalists, activists and HRDs around the world.<sup>178</sup>

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173 Amnesty International, *Ending the Targeted Digital Surveillance of Those Who Defend Our Rights* (Index: ACT 30/1385/2019), 20 December 2019, <https://www.amnesty.org/en/documents/act30/1385/2019/en/>, p. 4.

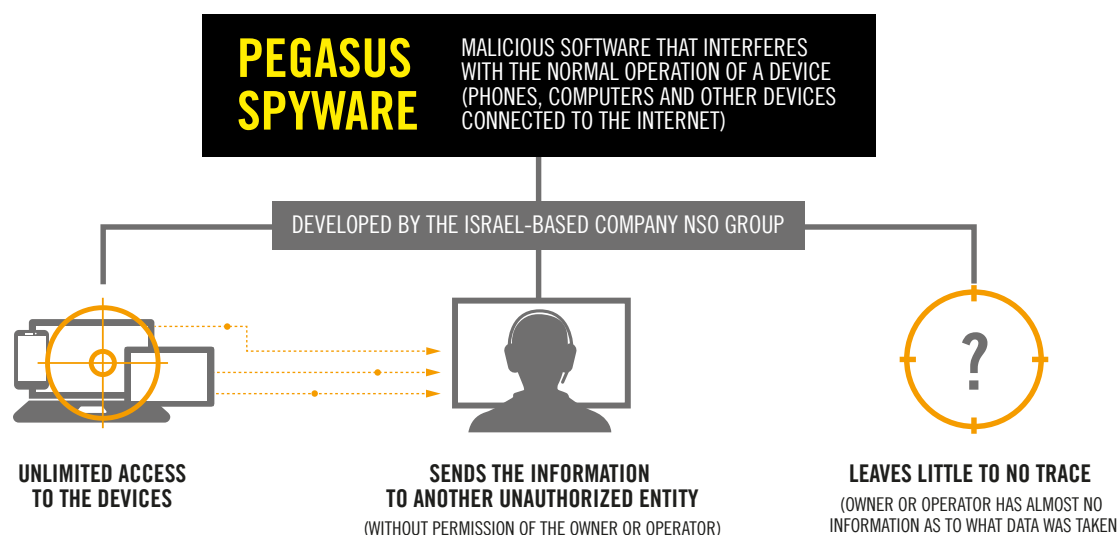
174 Amnesty International, "What is spyware and what can you do to stay protected?", 14 December 2023, <https://www.amnesty.org/en/latest/campaigns/2023/12/what-is-spyware-and-what-you-can-do-to-stay-protected/>

175 Citizen Lab, *GeckoSpy Pegasus Spyware Used against Thailand's Pro-Democracy Movement* (previously cited).

176 Amnesty International, "Costa Rica: All states must immediately ban highly invasive spyware", 5 June 2023, <https://www.amnesty.org/en/latest/news/2023/06/costa-rica-all-states-must-immediately-ban-highly-invasive-spyware/>

177 NSO Group, "About Us", <https://www.nso-group.com/about-us/> (accessed on 10 January 2024).

178 Amnesty International, "Forensic methodology report: How to catch NSO Group's Pegasus", 18 July 2021, <https://www.amnesty.org/en/latest/research/2021/07/forensic-methodology-report-how-to-catch-nso-groups-pegasus/>



In 2022, Citizen Lab, together with iLaw and Digital Reach, published forensic research revealing that the devices of at least 35 Thai individuals were infected with Pegasus spyware from October 2020 to November 2021 during the height of the pro-democracy protests.<sup>179</sup> Amnesty International’s Security Lab independently analysed and confirmed the presence of Pegasus spyware in the devices of five individuals.<sup>180</sup>

Among the 35 individuals known to have been targeted with Pegasus, 15 of them are men and 15 are cisgender women (the identities of the remaining five are unknown). None of these individuals publicly identify as an LGBTI person. The targets of the spyware attacks included activists, artists, academics, HRDs and members of the opposition political party Move Forward and its affiliated political group Progressive Movement. All of them had publicly criticized the government, engaged in peaceful pro-democracy demonstrations and/or worked to defend the human rights of protesters.

Amnesty International was able to conduct interviews with nine of the 15 women targeted with Pegasus spyware. Six of the interviewees were youths under 25 years old at the time when their devices were infected with the spyware. Many of the targeted women activists are high-profile leaders who regularly gave public speeches during peaceful demonstrations. They were vocally critical of the government and the monarchy, both at protests and on their social media platforms. These included the prominent student protest leaders Panusaya Sithijirawattanakul, Jutatip Sirikhan and Benja Apan (see Case Study 1).

179 It must be noted that the Bangkok-based NGO iLaw, one of the organizations that led the forensic investigation with The Citizen Lab and Digital Reach, provided in the initial research report a list of 30 individuals whose devices were infected with Pegasus spyware. Shortly after, they revealed the five additional cases of infections on devices belonging to members of the opposition party Move Forward and its affiliated political group Progressive Movement. See Citizen Lab, *GeckoSpy Pegasus Spyware Used against Thailand’s Pro-Democracy Movement* (previously cited) and iLaw, “สืบค้นในคดีต่อศาลจะไม่ใช่ปลายทางแต่คือพยานหลักฐาน” ถอดต้นกาวอภิปราบ “เพกาซัส” ของนักกิจกรรม “แนวหน้า” 21 July 2022, <https://www.ilaw.or.th/articles/5314> (in Thai).

180 Citizen Lab, *GeckoSpy Pegasus Spyware Used against Thailand’s Pro-Democracy Movement* (previously cited). See also Amnesty International, “Thailand: Pegasus spyware found on phones of dissidents involved in mass protests”, 18 July 2022, <https://www.amnesty.org/en/latest/news/2022/07/pegasus-thailand-activists-protests/>.

### **BENJA APAN: “THE STATE PROBABLY KNOWS US BETTER THAN WE KNOW OURSELVES”**

Benja Apan is an independent youth activist and an engineering student at Thammasat University. In 2020 she became one of the leaders of the United Front of Thammasat and Demonstration (UFTD), a group run by Thammasat University students which staged many mass pro-democracy protests in Bangkok between 2020 and 2021. Benja Apan often got up on stage to publicly speak out, and organized protests about the government’s failure to handle the Covid-19 pandemic, monarchical reforms, lack of judicial independence and the right to bail for political activists in detention.

Benja Apan was targeted with Pegasus spyware once, on or around 17 November 2021, when she was being held in arbitrary pre-trial detention on lèse-majesté charges without access to her devices.<sup>181</sup> She did not find out about her phone being compromised until her release from prison in January 2022.<sup>182</sup>

“I was worried in case they could check my Telegram messages, so they would know how many people are involved in the movement... they would know the organizational structure and that would risk [other activists’] safety as well. They know how you think, who you are, so they can use it against you. It’s like psychological warfare. The state probably knows us better than we know ourselves... Privacy is so important. It isn’t just about me, it’s about people around me.”<sup>183</sup>

Because of the prominent role she played during the 2020-2021 protests, Benja Apan has faced at least 19 charges, including lèse-majesté, sedition, contempt of court and violation of the protest ban under the Emergency Decree. Amid the secrecy and ambiguity around the use of Pegasus spyware in Thailand (see Section 5.3), she expressed concerns that the authorities might use spyware to extract information in order to prosecute her and her friends for their peaceful activism.

Benja Apan has since paused her activism work. She told Amnesty International that she believes there is a high chance that she could be under surveillance again if she returns to work within the activist movement and take up a role perceived as dangerous by the government...<sup>184</sup>

A leader of the UFTD, Panusaya Sithijirawattanakul is one of the most well-known student activists in the youth-led pro-democracy movement. Her activism led the BBC to list her among the 100 most inspiring and influential women of 2020.<sup>185</sup> According to a forensic investigation, Panusaya Sithijirawattanakul’s mobile phone was hacked four times in 2021.<sup>186</sup>

181 Citizen Lab, *GeckoSpy Pegasus Spyware Used against Thailand’s Pro-Democracy Movement* (previously cited).

182 Interview in person with Benja Apan, woman HRD and protest leader, 26 August 2023, Bangkok.

183 Interview in person with Benja Apan, woman HRD and protest leader, 26 August 2023, Bangkok.

184 Interview in person with Benja Apan, 26 August 2023.

185 Prachatai English, “Thai student activist listed as one of BBC’s 100 most influential women”, 25 November 2020, <https://prachataienglish.com/node/8934>

186 Citizen Lab, *GeckoSpy Pegasus Spyware Used against Thailand’s Pro-Democracy Movement* (previously cited).

She told Amnesty International:

***“I knew authorities were watching me, but I would never in my life [have] expected to be targeted with this type of spyware. At the end of the day, I’m just a student activist.”<sup>187</sup>***

Similarly, Jutatip Sirikhan is a prominent human rights activist who served as the President of the Student Union of Thailand and one of the leaders of Free Youth, another group of student activists that staged pro-democracy protests between 2020 and 2021. She said, “I do not have much doubt that they chose to target me with the spyware because I was often in the spotlight on protest stages.”<sup>188</sup> In total, her device was infected with Pegasus spyware six times.<sup>189</sup>

Amnesty International also documented that some women HRDs were targeted with Pegasus despite not having a strong public presence. Several of them played a role in the administrative, financial and logistical operations of the protest movement. While some of the women interviewed said they had taken on this role because they wanted to express themselves and join a peaceful movement, their decision was often driven in part by fear of reprisals or a desire for some level of anonymity.

For example, in November 2021, Niraphorn Onnkhaow (see Case Study 2) became another target of Pegasus spyware attacks. She ran back-end operations for the UFTD, including serving as a co-registrant for the group’s bank account to accept donations.<sup>190</sup> Notably, she did not have a public-facing role in the group. However, she received an e-mail from Apple saying that her iPhone has been targeted by “state-sponsored attackers”.<sup>191</sup> Her device was infected by spyware 14 times in 2021 – the highest number of infections among the 35 targeted individuals.<sup>192</sup>

## CASE STUDY 2

### **NIRAPHORN ONNKHAOW: “KEEPING A LOW PROFILE COULD NOT PROTECT ME”**

Niraphorn Onnkhaow, a 22-year-old student activist and woman HRD, became interested in activism when she was a high-school student in Chanthaburi Province, eastern Thailand. “Among my school friends’ circle, we used to joke how we would be put into attitude adjustment camps if we spoke of General Prayut,” she said. She described to Amnesty International her experience during the NCPO’s rule: “I don’t understand why we need to shut our mouth – why we can’t speak of certain issues in public. It drove me to realize that we should come out and run a campaign to advocate for more freedom of expression in this country.”<sup>193</sup>

*Continued on next page*

187 Interview in person with Panusaya Sithijirawattanakul, woman HRD and protest leader, 23 August 2023, Bangkok.

188 Interview in person with Jutatip Sirikhan, woman HRD and protest leader, 27 August 2023, Bangkok.

189 Citizen Lab, *GeckoSpy Pegasus Spyware Used against Thailand’s Pro-Democracy Movement* (previously cited).

190 Niraphorn Onnkhaow’s name is available on the UFTD’s Facebook posts calling for donations. See, for example, the following link: <https://www.facebook.com/ThammasatUFTD/photos/a.108256360982493/122287812912681>

191 Interview in person with Niraphorn Onnkhaow, woman HRD and former member of the UFTD, 13 November 2023, Bangkok.

192 Citizen Lab, *GeckoSpy Pegasus Spyware Used against Thailand’s Pro-Democracy Movement* (previously cited).

193 Interview in person with Niraphorn Onnkhaow, woman HRD and former member of the UFTD, 13 November 2023, Bangkok.

Niraphorn Onnkhaow formally joined the UFTD in 2020 while she pursued a degree in English at Thammasat University.<sup>194</sup> She speculated that the spyware infection had links with increasing numbers of peaceful protests demanding the right to bail for protest leaders, including prominent members of her group who were held in pre-trial detention at that time.<sup>195</sup>

“I was extremely shocked and terrified when I learned that I was targeted. I’ve already tried to mitigate my risks by only working on back-end operations, but it turned out I was the one who was targeted most often. Keeping a low profile could not protect me. I kept wondering how much data they must have collected from me. Up until now, I still feel anxious and paranoid because I know authorities could watch me through my camera or listen to me through the microphone via this spyware”.<sup>196</sup>

On 17 September 2021, police officers from the Technology Crime Suppression Division raided Niraphorn Onnkhaow’s house where she was living with other activists. They confiscated six electronic devices including laptops and mobile phones and arrested and charged her with lèse-majesté, sedition and Section 14(3) of the CCA (Online dissemination of content in violation of criminal offences related to national security) for alleged involvement in the UFTD’s online activities.<sup>197</sup> “When I was arrested, a police officer [from Khlong Luang Police Station] told me, ‘I’ve been following you for a long time.’”<sup>198</sup> The officer did not elaborate further how he had been “following” her.<sup>199</sup>

As a result of these digital attacks, she decided to end her role in the protest movement due to fears that her private data could be weaponized against her if she continued to be involved in protests.

Two student activists from Salaya for Democracy - Pansiree Jirathakoone and Chatrapee Artsomboon - also found their mobile phones were infected with Pegasus spyware. Chatrapee Artsomboon told Amnesty International that she was targeted despite the fact her group tried to keep a lower profile than other protest groups because they prefer to provide support on “behind-the-scenes actions” such as coordination, event organization and fundraising. Still, Chatrapee Artsomboon occasionally had to represent the group in public through media interviews, and her bank account was also used to fundraise for the group.<sup>200</sup> A forensic investigation shows her mobile phone was compromised twice in August and September 2021.<sup>201</sup>

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194 Interview with Niraphorn Onnkhaow, 13 November 2023.

195 Interview with Niraphorn Onnkhaow, 13 November 2023. Many protest leaders were held in pre-trial detention and their bail requests denied. As a result, protesters gathered in many locations across the country to call for their right to bail. The protest leaders in detention went on a hunger strike to protest the court’s denial of their bail. See Nikkei Asia Review, “Thailand must free student hunger strikers now,” 25 April 2021, <https://asia.nikkei.com/Opinion/Thailand-must-free-student-hunger-strikers-now>

196 Interview with Niraphorn Onnkhaow, 13 November 2023.

197 Interview with Niraphorn Onnkhaow, 13 November 2023. See also TLHR, คดี 112 “บ๊วย-รุ่ง” ถูกกล่าวหาว่าเป็นแอดมินเพจแนวร่วม มธ.ฯ โปศคหมีนภักดิ์วิรัช, <https://database.tlhr2014.com/public/case/1852/>

198 Interview with Niraphorn Onnkhaow, 13 November 2023.

199 Interview with Niraphorn Onnkhaow, 13 November 2023.

200 Interview with Chatrapee Artsomboon, woman HRD and former protest organizer, 27 August 2023, Bangkok.

201 Citizen Lab, *GeckoSpy Pegasus Spyware Used against Thailand’s Pro-Democracy Movement* (previously cited).

For Pansiree Jirathakoone, the news about the spyware infection of her mobile phone, which took place in August 2021, came as a surprise:

***“I worked mainly on strategy and decision making for the group with very little public engagement. I wondered how they knew they should target me because I had always been behind the scenes.”<sup>202</sup>***

Similarly, renowned actress Intira Charoenpura, who provided logistical and fundraising support for the protest movement, told Amnesty International that she was shocked that her mobile phone was infected with Pegasus spyware three times in 2021,<sup>203</sup> given that her role was limited to “back-end assistance”.<sup>204</sup> This support came in the form of supplies, such as bottled water and meals for those attending protests, as well as helmets to protect against use of water cannons and rubber bullets.<sup>205</sup> Nonetheless, she speculated that she was attacked due to her fundraising activities for the protest movement.<sup>206</sup>

Amnesty International also identified that individuals working in human rights organizations encountered the spyware attacks while they were campaigning and advocating for the rights of the protesters. These individuals operate independently from, and are not always considered part of, the movement. However, anti-rights rhetoric often positions them as sympathizers or supporters of the movement.<sup>207</sup> Among those targeted included freedom of expression advocate Bussarin Paenaeh (see Case Study 3) and human rights lawyer Pornpen Khongkachonkiet.

### CASE STUDY 3

#### **BUSSARIN PAENAEH: “IT’S LIKE WE ARE IN A DARK CAVE”**

Bussarin Paenaeh is a Muslim woman HRD who has worked at the Thai human rights NGO iLaw since 2016.<sup>208</sup> Through her work at iLaw, she has been working with Amnesty International Thailand to develop a database called Mob Data to record public protests in Thailand since 2020.<sup>209</sup> “We needed detailed, factual information to be able to engage with the authorities. We needed to facilitate access to information for the people”.<sup>210</sup>

Bussarin Paenaeh, who describes herself as “very shy” wanted to advocate for human rights while avoiding being “on the frontline”.<sup>211</sup> Because of her relatively low public profile, she was shocked when she found out she had been targeted with Pegasus once in February 2021.<sup>212</sup>

*Continued on next page*

202 Interview in person with Pansiree Jirathakoone, woman HRD and former protest organizer, 27 August 2023, Bangkok.

203 Citizen Lab, *GeckoSpy Pegasus Spyware Used against Thailand’s Pro-Democracy Movement* (previously cited).

204 Interview in person with Intira Charoenpura, actress and woman HRD, 16 November 2023, Bangkok.

205 Interview with Intira Charoenpura, 16 November 2023.

206 Interview with Intira Charoenpura, 16 November 2023.

207 Way Magazine, ‘รับมือตำรวจลับ-มือหนักหลายประเทศ’ ซักถามหัวหน้า NGO ผู้วางกฎหมายหลายครั้งรวมกลุ่ม, 26 May 2022, <https://waymagazine.org/ban-ngo-law/>

208 Interview in person with Bussarin Paenaeh, woman HRD, 22 August 2023, Bangkok.

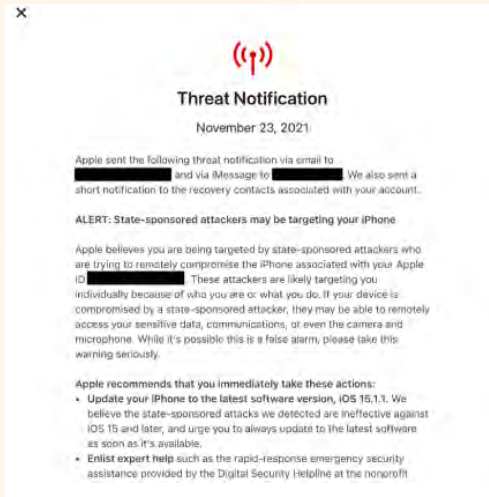
209 Interview with Bussarin Paenaeh, 22 August 2023.

210 Interview with Bussarin Paenaeh, 22 August 2023.

211 Interview with Bussarin Paenaeh, 22 August 2023.

212 Citizen Lab, *GeckoSpy Pegasus Spyware Used against Thailand’s Pro-Democracy Movement* (previously cited).

“A Facebook friend who is also an activist had shared a screenshot of an email he’d received from Apple informing him he might have been compromised by a state-sponsored attacker. I was puzzled but I did not take it seriously because my friend is a high-profile activist. I was curious so I searched my emails and found the same warning. An email was sent around 4am on 23 November [2021]. Later that evening, I was notified via iMessage by Apple that I had been attacked.”<sup>213</sup>



A screenshot of the “threat notification” which Bussarin Paenaeh received on 23 November 2021 through her Apple ID’s Sign-In and Security page. (Personal details redacted)

We only know we are targeted. This left us with our own imagination, and I could only imagine about all the horrible things that can happen when a woman’s private information is leaked or exposed. It’s like we are in a dark cave.”

Bussarin Paenaeh believes she was targeted due to her role in documenting the situation of human rights for the pro-democracy protesters. “As I have been showing up at most protests to document human rights developments, authorities have been monitoring my activities. One time in July 2020, my name appeared on a news report. The report misgenders me and says that security agencies have listed ‘Mr. Bussarin’ as one of the protest organizers, alongside [prominent human rights lawyer] Anon Nampa.”<sup>214</sup>

“The challenge is, we know nothing. I have not seen the true impact of Pegasus. They extracted our information, but we have not seen how our data has been used in our country. So, I still haven’t felt its real power.

Woman HRD Pornpen Khongkachonkiet was targeted in November 2021. She heads the Cross-Cultural Foundation, a Bangkok-based human rights organization that works on torture and enforced disappearance. According to Pornpen Khongkachonkiet, her foundation worked on a sensitive case of the disappearance of Wanchalearm Satsaksit, a political activist who fled persecution by the NCPO to Cambodia.<sup>215</sup> Around the time that her phone was infected with spyware, Pornpen Khongkachonkiet and her team were also providing legal aid and advocacy support to a protester who was allegedly tortured on 29 October 2021 while he was held in police custody.<sup>216</sup>

The secrecy surrounding the spyware trade and use is such that Amnesty International cannot unequivocally attribute targeted digital surveillance using Pegasus against the women HRDs documented in this research to specific Thai or other state actors. However, the weight of technical and circumstantial evidence led Amnesty International to conclude that there is a strong likelihood that one or more Thai state actors, or agents acting on their behalf, were involved in the use of the spyware.

213 Interview with Bussarin Paenaeh, 22 August 2023.

214 Interview with Bussarin Paenaeh, 22 August 2023.

215 Interview by video call with Pornpen Khongkachonkiet, woman HRD, 14 November 2023.

216 Interview with Pornpen Khongkachonkiet, 14 November 2023. See the detail of this case at Prachatai, นายอดิชา ตรี. หวางงربولคดีซ้อมทรมานเกือบเดือนไม่ค้น แม่เพิกฤติคุณ สน.สันติแวง, 26 November 2021, <https://prachatai.com/journal/2021/11/96133>.



Those targeted with Pegasus spyware have a previous history of being targeted by the Thai government for their human rights work. They were targeted between 2020 and 2021 when the Thai government continually sought to crack down on dissidents, including HRDs involved in the pro-democracy movement. Many of the women HRDs targeted also faced serious criminal charges, including under the lèse-majesté and sedition laws and the CCA, due to their activism, as well as intimidation and harassment by state authorities. In many cases, the devices of the women HRDs, particularly those of Panusaya Sithijirawattanakul, Jutatip Sirikhan and Niraphorn Onnkhaow, were infected with the spyware immediately before or during large pro-democracy protests.<sup>217</sup>

Furthermore, technical investigations showed the potential presence of a Pegasus spyware operator and seller inside Thailand. In 2016, Citizen Lab identified a “cluster of Pegasus servers” potentially connected to the Royal Thai Police’s Narcotics Suppression Bureau (NSB) and subsequent scans in 2018 showed a “single Pegasus operator active in Thailand”<sup>218</sup> On 27 July 2022 the opposition Move Forward Party revealed that the NSB had purchased a similar spyware called Minotaur from Q Cyber Technologies SARL, a company of which the NSO Group is a subsidiary, between 2014 and 2021.<sup>219</sup>

Pegasus spyware is developed by the Israeli-based company NSO Group. The NSO Group has consistently declared that “NSO products are used exclusively by government intelligence and law enforcement agencies to fight crime and terror”.<sup>220</sup> Accordingly, the spyware operator is most likely affiliated with a state. In this research, Amnesty International could not identify any other governments, except for the Thai government, as having an interest in targeting HRDs in Thailand.

Amnesty International wrote to NSO Group on 5 April 2024 to ask whether NSO Group, Circles, Q Cyber Technologies SARL or other related legal entities had sold, directly or indirectly, any of its products, including Minotaur and Pegasus spyware, to any Thai government agencies, Thai companies, or any other governments that may have targeted the women HRDs featured in this report. Amnesty International also asked whether NSO Group had conducted human rights due diligence as per the UN Guiding Principles during the development of the spyware and prior to any sales, and if any steps were taken to prevent human rights abuses related to the use of Pegasus spyware. NSO Group did not provide any response.

## TARGETED ATTACKS ON FACEBOOK ACCOUNTS

Surveillance through Pegasus spyware was not the only method used to compromise the private data of women and LGBTI HRDs. On 17 November 2022, at least 44 individuals in Thailand reported having received a notification from Meta of “government-backed or sophisticated attacker alerts” via their personal Facebook accounts’ support inbox.<sup>221</sup> Meta’s Help Center indicates that this alert could include malicious attempts to “pose as someone you know or want to connect with – like a recruiter working in your industry – to trick you into befriending and communicating with them, sharing sensitive information, downloading malicious files, or clicking on malicious links designed to steal your passwords or other information” or to “passively [research] information about you to learn more about your online

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217 See the analysis of these dates at Citizen Lab, *GeckoSpy Pegasus Spyware Used against Thailand’s Pro-Democracy Movement* (previously cited).

218 Citizen Lab, *GeckoSpy Pegasus Spyware Used against Thailand’s Pro-Democracy Movement* (previously cited).

219 Move Forward Party, แฉ! เอกสารของบขช. ชี้อภิศาสตราจาก สดช. ขอมรรับสั่งมาฯ ใช้มาตั้งแต่ปี 57 ตอนที่ ‘ถ้าสมชัยขออภัยเดาว่าเป็นตัวใหม่’, 27 July 2022, <https://www.moveforwardparty.org/news/14287/> (in Thai). In 2021, Amnesty International, Privacy International and SOMO have uncovered NSO Group’s corporate structure and its relationship with Q Cyber Technologies. See Amnesty International, Privacy International and SOMO, “Operating from the shadows: Inside NSO Group’s corporate structure” (Index No. DOC 10/4182/2021), 31 May 2021, <https://www.amnesty.org/en/documents/doc10/4182/2021/en/> See also: Israeli Corporations Authority, *Corporation registry for NSO Group LTD, corporation number 514395409*, <https://ica.justice.gov.il/Request/OpenRequest?rt=CompanyExtract> with corporation number: 514395409 (accessed on 8 April 2024).

220 NSO Group, “Human rights policy”, <https://www.nsoigroup.com/governance/human-rights-policy/> (accessed on 10 January 2024).

221 iLaw, พบนักกิจกรรม-เอ็นจีโอ 44 คน ได้รับความเดือดร้อนว่า อาจถูกโจมตีด้วยซอฟต์แวร์สอดแนม, 6 December 2022, [https://freedom.ilaw.or.th/node/1158?fbclid=IwAR3oh4I3N0fRQXVlgi50A-R7nj70QIzGe\\_oIpMwIw3\\_ORHQj3tbdmOVcnVs](https://freedom.ilaw.or.th/node/1158?fbclid=IwAR3oh4I3N0fRQXVlgi50A-R7nj70QIzGe_oIpMwIw3_ORHQj3tbdmOVcnVs)

and offline activity”.<sup>222</sup> At the global level, such attacks often target civil society actors, including activists and outspoken critics, “to learn more about their activity online and offline and manipulate them into compromising their devices and online accounts”.<sup>223</sup>

Amnesty International spoke with six women and LGBTI HRDs who received this alert. The targeted individuals included pro-democracy activists, lawyers, HRDs and environmental justice defenders. Two protest leaders – Benja Apan and Panusaya Sithijirawattanakul – whose devices were also infected with Pegasus spyware earlier in 2021, also received this notification. Similar to the Pegasus attacks, all the other targets interviewed by Amnesty International are involved in activism deemed to be critical of the government and/or the monarchy.

A woman HRD and prominent lawyer at TLHR told Amnesty International that she and three other staff members at her organization received the same alert on the same day.<sup>224</sup> All are in regular contact with other lawyers, activists and civil society organizations, as well as clients who are survivors of human rights violations. She said, “I was shocked that the attacker chose to target me... Unlike the infection through Pegasus spyware, it is not confirmed whether the attack successfully compromised my [Facebook] account and what type of information they were able to obtain.”<sup>225</sup>

Amnesty International found that LGBTI activists and critics also suffered this type of attack. Another activist, Patcharadanai Rawangsub, said, “I could only guess what information the ‘attacker’ has obtained”.<sup>226</sup> Patcharadanai Rawangsub was previously a member of Talu Fah, a group that organized a protest in November 2022 about the government’s environmental and development-related policies during an APEC Economic Leaders’ Summit held in Bangkok.<sup>227</sup> Another activist from Talu Fah also received the same alert from Meta.<sup>228</sup>

Talu Fah is one of the most prominent protest groups in Thailand. Since 2021, the group has organized many rallies to call for democratic reforms in the country. Talu Fah activists have been subjected to various types of surveillance. The group’s leader, Jatupat Boonpattaraksa, who has been detained three times for his peaceful activism, was infected with Pegasus spyware three times between June and July 2021.<sup>229</sup> Moreover, on 2 August 2021, members of the Talu Fah group were among those who found a GPS tracker attached to their vehicle.<sup>230</sup>

Patcharadanai Rawangsub speculated that the “[a]uthorities probably did not know I already left Talu Fah at that time, and they might have wanted information about what activities the group was planning in order to prepare their response”.<sup>231</sup>

Amnesty International also found that the Facebook accounts of LGBTI HRDs living in exile were targeted, including the openly gay scholar and prominent academic Pavin Chachavalpongpun (see Case Study 4) and non-binary youth HRD Benjamaporn Nivas.

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222 Meta, “Facebook Help Center: Government-backed or sophisticated attacker alerts”, <https://www.facebook.com/help/1550813285316567> (accessed on 10 January 2024).

223 Meta, “Facebook Help Center: Government-backed or sophisticated attacker alerts” (previously cited).

224 Interview in person with a representative from TLHR (full name withheld for security reasons), 28 August 2023, Bangkok.

225 Interview in person with a representative from TLHR (full name withheld for security reasons), 28 August 2023, Bangkok.

226 Interview by video call with Patcharadanai Rawangsub, gay HRD, 23 November 2023.

227 Interview with Patcharadanai Rawangsub, 23 November 2023.

228 iLaw, Facebook Post, 17 November 2022, <https://www.facebook.com/iLawClub/photos/a.10150540436460551/10167183048360551>

229 Citizen Lab, GeckoSpy Pegasus Spyware Used against Thailand’s Pro-Democracy Movement (previously cited).

230 See the group’s Facebook post reporting on this incident at <https://www.facebook.com/thalufah/photos/a.100247908960817/136597241992550/?type=3>

231 Interview with Patcharadanai Rawangsub, 23 November 2023.

### **PAVIN CHACHAVALPONGPUN: “I SUSPECT IT’S YET ANOTHER DIRTY TRICK THE THAI AUTHORITIES DID TO INTIMIDATE ME”**

Pavin Chachavalpongpun is an outspoken critic of the military and the monarchy. In 2011, he ran a nationwide campaign calling for the Thai authorities to free Ampon Tangnoppakul, an elderly man sentenced to 20 years’ imprisonment for allegedly violating the lèse-majesté law and the CCA.<sup>232</sup> After the 2014 coup, the NCPO summoned Pavin Chachavalpongpun for “attitude adjustment” and subsequently issued an arrest warrant for his failure to report to the authorities and charged him with lèse-majesté, resulting in him seeking asylum in Japan.<sup>233</sup>

Currently, Pavin Chachavalpongpun works as a professor at Japan’s Kyoto University and runs the coalition 112Watch which raises international awareness about the lèse-majesté law in Thailand.<sup>234</sup> He told Amnesty International:

“Online platforms are critical for my advocacy not only because I cannot physically be in Thailand, but also because the younger generation has combined street protests with online protests.”<sup>235</sup>

In 2020 he set up a public Facebook group called Royalist Marketplace where members can have discussions, exchange opinions and share memes about Thai politics, especially on issues related to the monarchy. At the height of the mass protests in 2020, the group had more than 1 million members.<sup>236</sup> In response to the group’s rising popularity, in August 2020 Thailand’s MDES presented a “legal request” to Meta for geo-blocking – restricting access to internet content in a specific geographical location, namely, the page within Thailand.<sup>237</sup>

After Meta complied with this request, Pavin Chachavalpongpun responded by swiftly creating a new similar group with a similar name: Royalist Marketplace-Talad Luang.<sup>238</sup> As of February 2024, the group has continued to grow and remains active with more than 2.3 million members.<sup>239</sup>

*Continued on next page*

232 Interview by video call with Pavin Chachavalpongpun, prominent scholar and critic, 14 December 2023. See the details of Ampon Tangnoppakul’s case at Columbia University, “Global Freedom of Expression, The case of Ampon Tangnoppakul (Uncle SMS) (2011), <https://globalfreedomofexpression.columbia.edu/cases/thailand-v-ampon-tangnoppakul-uncle-sms/#:~:text=Ampon%20was%20accused%20of%20committing,public%20morals%20and%20national%20security>

233 Interview with Pavin Chachavalpongpun, 14 December 2023.

234 See Pavin Chachavalpongpun’s profile at the 112Watch coalition’s website at <https://112watch.org/>

235 Interview with Pavin Chachavalpongpun, 14 December 2023.

236 Interview with Pavin Chachavalpongpun, 14 December 2023.

237 The Guardian, “Facebook blocks access to group criticizing Thailand’s monarchy”, 25 August 2020, <https://www.theguardian.com/world/2020/aug/24/facebook-blocks-access-group-criticising-thailand-monarchy>

238 The term “Talad Luang” is a Thai translation of the term “Royalist Marketplace”; Pavin Chachavalpongpun, “Thailand’s monarchy becomes a subject for discussion”, 13 October 2021, <https://southeastasiaglobe.com/royalist-marketplace/>

239 The Facebook group can be accessed at <https://www.facebook.com/groups/634791290746287>



### Take steps to protect your account

Pavin, a sophisticated attacker may be interested in your Facebook account.

#### What this means

We do not believe your account was compromised, but someone may be attempting to gain information about you based on what you share publicly.

#### What you can do

Visit our [Help Center](#) for steps you can take to protect your account.

*Screenshot of the alert that Pavin received in November 2022*

Pavin Chachavalpongpun received a “sophisticated attacker” alert from Meta on 17 November 2022. “I did not get any further information from Meta,” he said. “I suspect it’s yet another dirty trick the Thai authorities did to intimidate me.”<sup>240</sup>

Benjamaporn Nivas told Amnesty International that they had received a similar notification even though they had already moved to Canada to seek asylum after being charged under the lèse-majesté law for taking part in peaceful protests in Thailand.<sup>241</sup> “I was not sure what they could achieve from hacking my [Facebook] account, as I was no longer in the country. However, it reflects the likelihood that activists are still not safe from surveillance by the [Thai] state, even those living outside of Thailand.”<sup>242</sup>

## GENDER-BASED FEARS AND THE BREACH OF PRIVACY

***“I believe women and LGBTI activists are being watched, monitored and scrutinized more closely.”<sup>243</sup>***

Niraphorn Onnkhaow, woman HRD and former member of the UFTD

Amnesty International assessed that the targeted digital surveillance documented in this research had distinct gendered impacts on women and LGBTI HRDs due to the root causes of gender-based violence in Thai society described in section 5.1 above. The testimonies below illustrate that targeted digital surveillance constitutes TfGBV due to its gendered impacts that manifest disproportionately against women and LGBTI HRDs.

240 Interview with Pavin Chachavalpongpun, 14 December 2023.

241 Interview by voice call with Benjamaporn Nivas, non-binary youth HRD, 5 December 2023.

242 Interview with Benjamaporn Nivas, 5 December 2023.

243 Interview in person with Niraphorn Onnkhaow, woman HRD and former member of the UFTD, 13 November 2023, Bangkok.

## “FOR GAY MEN AND TRANS WOMEN

THAI PRISONS CAN BE BRUTAL AS YOU WILL MOST LIKELY BE **SEXUALLY HARASSED AND ASSAULTED AND FACE DISCRIMINATION.**”



Those targeted with Pegasus spyware mentioned that they were particularly worried that the attacker could use the spyware to activate the camera on their mobile phone. “I also have a habit of bringing my phone into the bathroom to play music while I shower, so it creeps me out and scares me to think they could have looked through the camera and seen me,” said Panusaya Sithijirawattanakul.<sup>244</sup> Similarly, Bussarin Paenaeh said: “I heard male activists joking about how we should no longer bring our phones into the bathroom because of Pegasus spyware. As a woman, I didn’t find that funny at all.”<sup>245</sup>

Niraphorn Onnkaow shared the gendered fear that her private photos or information obtained through targeted surveillance would be disseminated online as a means to harass and attack them: “As a woman, having my privacy invaded is frightening. When I realized authorities could have full access to my personal data, I felt so unsafe. If I have private photos on my phone, they could be leaked to smear my reputation and hurt me to the extent that I’d have to stop my activism. The impacts of such blackmailing won’t be the same for men because women tend to be penalized more for this type of scandal in the Thai society.”<sup>246</sup>

Panusaya Sithijirawattanakul told Amnesty International that women HRDs are vulnerable to blackmail or attacks through the dissemination of their private data obtained through targeted surveillance. “The effect of surveillance on women may not seem obvious to everyone at first, but women do have more to lose. Anything related to women’s private lives could be picked up and used as a weapon against us to make us stop our activism.”<sup>247</sup>

Similarly, TLHR’s representative spoke of her concerns related to the data of her women clients: “I am worried about a potential leak of information I might have discussed with other activists. I know that most women activists are quite anxious about the confidentiality of their personal information, such as home addresses and other aspects of their private lives.”<sup>248</sup>

Patcharadanai Rawangsub, whose Facebook account was targeted further, shared with Amnesty International his concerns that his private data, if compromised, could be easily used to prosecute him. He said, “going to prison is my worst nightmare. For gay men and trans women, Thai prisons can be brutal as you will most likely be sexually harassed and assaulted and face discrimination.”<sup>249</sup> Research and media investigations confirm that trans women and gay men experience discriminatory practices and sexual violence in Thailand’s prison system.<sup>250</sup>

244 Interview in person with Panusaya Sithijirawattanakul, woman HRD and protest leader, 23 August 2023, Bangkok.

245 Interview in person with Bussarin Paenaeh, woman HRD, 22 August 2023, Bangkok.

246 Interview with Niraphorn Onnkaow, 13 November 2023.

247 Interview with Panusaya Sithijirawattanakul, 23 August 2023.

248 Interview in person with a representative from TLHR (full name withheld for security reasons), 28 August 2023, Bangkok.

249 Interview with Patcharadanai Rawangsub, 23 November 2023.

250 See more at Prachatai, *คุกไทยไม่ได้มีแค่ชาย-หญิง ‘LGBT’ อุดดและการเลือกปฏิบัติหลังลูกกรง*, 3 October 2018, <https://prachatai.com/journal/2018/10/78971>; WorkPoint Today, *ชีวิต LGBTQ+ กับการถูกคุกคามในคุก*, 25 March 2022, <https://www.youtube.com/watch?v=MMeFGiO8gMQ>; Jarawan Kongyod, *เพศภาวะ เพศวิถี ประสบการณ์ชีวิตของกะเทยในคุก*, 2017, [https://ethesisarchive.library.tu.ac.th/thesis/2017/TU\\_2017\\_5408031119\\_8114\\_8728.pdf](https://ethesisarchive.library.tu.ac.th/thesis/2017/TU_2017_5408031119_8114_8728.pdf); Thai Lawyers for Human Rights, *ประสบการณ์ใต้กรงขังการยุติธรรมของ “สุชานันท์” หญิงข้ามเพศ ผู้ต่อสู้คดี* พ.ร.บ.คอมฯ เกือบ 4 ปี จนศาลฎีกายกฟ้อง, 9 May 2023, <https://tlhr2014.com/archives/55831>.

At the time of publication, Patcharadanai Rawangsub is facing one charge of violating the protest ban under the Emergency Decree for his participation in a peaceful protest on 24 June 2021.<sup>251</sup> He also shared with Amnesty International that a fellow activist from Talu Fah was prosecuted under the CCA in November 2023 for allegedly posting content online to invite people to protests.<sup>252</sup>

Despite the severity of these gender-based impacts, Amnesty International found there to be a lack of spaces for survivors to express their feelings over these violations. For instance, Bussarin Paenaeh said: “I thought a lot about what Pegasus could get access to, such as all photos taken and saved by me... I feel men are less vulnerable compared with women. There is limited space for women to speak about their fear and explain what they are scared of.”<sup>253</sup>

## 5.2.2 ONLINE HARASSMENT

Amnesty International found that state and non-state actors have routinely weaponized online spaces to attack, intimidate and discredit women and LGBTI HRDs, at least since the 2014 military coup. The following sub-section delves into four common methods of online harassment identified through interviews with women and LGBTI HRDs: the use of hateful and abusive speech; targeted smear campaigns; doxing; and threats of gendered violence.

### HATEFUL AND ABUSIVE SPEECH

The most common type of online harassment mentioned by almost every woman and LGBTI HRD interviewed for his research was the use of hateful and abusive speech.<sup>254</sup> These attacks are laced with misogynistic, homophobic and transphobic language. Many instances also involved sexualized content regarded as degrading or intimidating for women and LGBTI people. Digital technology increases the scale, speed and reach of such a speech and leaves footprints in the public digital sphere.<sup>255</sup> In some contexts, this different nature of technology-facilitated targeting can lead to qualitatively different kinds of gender-based harms compared to the harms that the same speech is capable of causing in offline spaces.

Amnesty International documented online attacks against women HRDs which were laden with derogatory language. Many attacks featured name-calling intended to shame them with sexist slurs, such as *karee*, a derogatory term used to refer to sex workers, or demeaning remarks about their physical appearance.

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251 Interview with Patcharadanai Rawangsub, 23 November 2023.

252 iLaw, 2 พฤศจิกายน 2566 และท.ร.บ.คอมพิวเตอร์ฯ ปมพทช.ล.ร.โพสข้อความข่มขู่ ‘ใส่ร้ายราชการ’ มุ่งหน้าไปบ้านพักประยุทธ์รับ 1, 22 November 2023, <https://www.ilaw.or.th/articles/10447>

253 Interview in person with Bussarin Paenaeh, woman HRD, 22 August 2023, Bangkok.

254 This goes in line with trends in other parts of the world. For example, in 2023, Amnesty International, GLAAD and the Human Rights Campaign found that Twitter (now X) was failing to protect LGBTQ+ organizations and individuals that advocate for members of the LGBTQ+ community from online violence and abuse. See: Amnesty International, “Hateful and abusive speech towards LGBTQ+ community surging on Twitter surging under Elon Musk”, 9 February 2023, <https://www.amnesty.org/en/latest/news/2023/02/hateful-and-abusive-speech-towards-lgbtq-community-surging-on-twitter-surging-under-elon-musk/>

255 See a similar observation about gendered disinformation at United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Gendered disinformation and its implications for the right to freedom of expression (previously cited), para. 59.

**PANUSAYA SITHIJIRAWATTANAKUL: “GETTING HATE COMMENTS HAS BECOME PART OF MY DAILY LIFE”**



© Summer Panadd

Panusaya Sithijirawattanakul, known as Rung, is one of the leading voices in Thailand’s youth-led pro-democracy movement, campaigning for human rights, democracy and reform of the monarchy. “Since I was young, I have been interested in the issue of gender equality, especially combating sexual violence. I was a survivor of sexual harassment myself. This got me interested in social issues and drove me to learn more about inequalities and human rights violations.”<sup>256</sup>

Apart from targeted digital surveillance, including infections by Pegasus spyware and targeted attacks on her Facebook account, Panusaya Sithijirawattanakul has also frequently faced online harassment in response to her online activism. “I’m living my life as if I’m always under attack. Getting hate comments has become part of my daily life; they come to me every day through every platform both in the comment section and my inboxes. I have a habit of checking the identities of these accounts or pages that posted those comments and often find that they had empty profiles newly created just to attack me and other activists. My suspicion is that they were part of the [state-run] IOs.”

Panusaya Sithijirawattanakul told Amnesty International that she also experiences frequent backlash for her activism in the form of online sexual harassment and gender-based attacks. “Most comments I have received are about attacks to my appearance. These accounts and pages usually call me fat or ugly – they even gave me a nickname “Pang Rung” which means Elephant Rung. I have also received a lot of direct messages, but I ignored all of them. Many people commented that they hoped I would be gang-raped or talked about my breasts,” she said.

*Continued on next page*

256 Interview in person with Panusaya Sithijirawattanakul, woman HRD and protest leader, 23 August 2023, Bangkok.

Some attacks against Panusaya Sithijirawattanakul came from people in the pro-democracy movement. “One time, a person within the pro-democracy movement posted a photoshopped picture of me standing on stage and holding a penis instead of a microphone. He kept posting it in the comment section of all my Facebook posts and I had to keep deleting it.”<sup>257</sup>

Amnesty International notes that these attacks, which focused on making fun of her physical appearance or portraying her as a sexual object, served to undermine her credibility as a leader and reinforce the existing discrimination against women that is present in the offline world.

Renowned woman journalist Ploy told Amnesty International,

***“I regularly received hateful comments, whenever I reported on X about controversial issues, such as political rights or issues related to the [SBP]. Some people said I was ugly. Some called me a hooker. I also got messages from random internet users making sexual comments about me or sending me pictures of their genitals”.***<sup>258</sup>

Apart from the online sexual harassment, Ploy told Amnesty International that when she was covering a story about an LGBTI rights protest in 2020, a man whom she suspected to be a plainclothes police officer approached her, took multiple photos of her and made comments about her physical appearance that she considered sexual harassment.

Actress and former activist Intira Charoenpura shared her experience of being attacked online with misogynistic language: “I’ve been called a ‘bitch’. They say ‘you’re insane, your mum has gone crazy because you’re like this’ [Intira’s mother suffered from dementia]. They use sexist slurs – I’ve been called a ‘slut’... It’s like they’re in the slur Olympics, where they are competing to see who can hurt me the most.”<sup>259</sup>

Interviews conducted by Amnesty International with LGBTI HRDs showed that they faced attacks with homophobic and transphobic language. The common slurs included *tood* and *katoey* – derogatory terms used to attack men perceived to be feminine, gay men and transgender women. Gender non-conforming, queer and non-binary HRDs, including protest organizer Siraphop Attohi (see Case Study 6), often received comments attacking them for their non-conformity with mainstream gender and sexuality norms.

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257 Interview in person with Panusaya Sithijirawattanakul, woman HRD and protest leader, 23 August 2023, Bangkok.

258 Interview in person with Ploy (full name withheld for security reasons), journalist and woman HRD, 23 August 2023, Bangkok.

259 Interview in person with Intira Charoenpura, actress and woman HRD, 16 November 2023, Bangkok.



### **SIRAPHOP ATTOHI: “SOME TROLLS SAID THEY WANTED TO BURN ME DOWN”**

Queer HRD Siraphop Attohi started engaging in activism in 2020 while a 22-year-old dramatic arts student at Chulalongkorn University.<sup>260</sup> Siraphop Attohi told Amnesty International that they initially learned about the pro-democracy movement through social media platforms.<sup>261</sup> They later co-founded the Seri Toey Plus, an LGBTI-led protest group calling for democracy and gender equality.<sup>262</sup>

Siraphop Attohi played a key role in delivering speeches in these protests, often while dressed in drag. “[P]rotests can be a masculine space. Even though there were many protest organizers who are women or LGBTI, they often had to perform masculinity when they gave public speeches to appear more trustworthy. I wanted to show that you don’t have to be masculine to be powerful. Giving speeches in drag is my way of delivering this message to the protest movement.”

However, dressing in drag during protests was not always safe for Siraphop Attohi. “When news outlets reported about my presence in the protests and published my photos, some internet trolls said they wanted to burn me down. Internet users said I looked weird and thought I was confused about my own gender identity. They asked how I could articulate my political demands when I’m still unsure about my identity.” According to Siraphop Attohi, these attacks came both from people outside the movement who disagreed with the protests, as well as people within the protest movement who held homophobic and transphobic views.

In addition to online harassment, Siraphop Attohi has faced eight charges of violating the protest ban under the now-defunct Emergency Decree for their participation in protests, including three protests relating directly to gender equality and one on the right to bail for political activists held in pre-trial detention.<sup>263</sup>

“Gender-diverse” pro-democracy protest leader Panupong Maneewong shared that he faced attacks featuring derogatory words about his sexuality and jokes about his dark skin tone.<sup>264</sup> He also explained how “[i]n another instance, I even saw a post that called my mother a ‘whore.’ That was painful and unacceptable”.<sup>265</sup>

Young HRD Nitchakarn Rakwongrit told Amnesty International that even the activists’ circle can be unsafe, especially for non-binary people: “In the online world, I would get anti-feminist comments from people within the pro-democracy movement. Many of them also made fun of me for identifying as non-binary saying that I was living in a fantasy world and had no knowledge about basic biology.”<sup>266</sup> Another non-binary rights advocate, Nitinan Ngamchaipisit, made a similar observation, stating that they had received comments from other activists who called them an “alien” for their nonconformity with the gender binary.<sup>267</sup>

260 Interview in person with Siraphop Attohi, queer HRD and protest organizer, 22 August 2023, Bangkok.

261 Interview with Siraphop Attohi, 22 August 2023.

262 Interview with Siraphop Attohi, 22 August 2023.

263 Interview with Siraphop Attohi, 22 August 2023.

264 Panupong Maneewong prefers to identify under the broad category of “gender-diverse” people rather than choosing to identify with a specific group within the LGBTI community.

265 Interview by voice call with Panupong Maneewong, gender non-conforming HRD and protest leader, 13 December 2023.

266 Interview in person with Nitchakarn Rakwongrit, non-binary HRD and youth feminist activist, 28 August 2023, Bangkok.

267 Interview in person with Nitinan Ngamchaipisit, non-binary HRD, 28 August 2023, Bangkok.

Panan, a queer transgender woman HRD based in Chiang Mai in northern Thailand, also reported receiving hate comments. The comments came after she participated in a peaceful protest in her province in July 2020 while holding a sign saying in Thai, “I want to be the first transgender woman who becomes the Prime Minister of Thailand.” She said: “As soon as the photo of me holding the sign became viral on Facebook, I received a lot of hate comments. Right-wing groups shared my photo and said horrible things about me. They said that I didn’t have a clear gender identity, that I could never be this country’s leader. They mocked my appearance. Some even cursed me to death. That was when I realized it’s not safe to be a transgender woman in this country.”<sup>268</sup>

Amnesty International found that individuals who antagonize and harass feminists in the online space intensified the mobilization of hateful and abusive language by means of cyber-mobbing, where a group of people stage a coordinated online attack on an individual. Daranee Thongsiri is a non-binary HRD and gender studies scholar who runs the group Feminista, an organization that raises awareness about feminism in online platforms. They told Amnesty International that such individuals often overwhelmed feminist activists’ social media posts with abusive comments: “These posts aren’t only hurtful. They overwhelm our online presence. They fill the comment sections with homophobic, transphobic and misogynistic language. As a result, the public audience can’t really engage with our content.”<sup>269</sup>

Daranee Thongsiri added that such individuals regularly used memes and jokes, primarily on Facebook and X, to disseminate hateful and abusive messages about feminist activists, especially “FemTwits” – the nickname initially used by anti-feminists to attack feminists using X as a means for their activism but later reclaimed by the activists themselves – and delegitimize their activism. “I have noticed a recent rise of anti-feminist pages and accounts on social media platforms. These pages would always come up with memes to mock feminist principles, such as sexual consent or the human rights of gender non-conforming people.”<sup>270</sup>



A meme making fun of feminist activists who engaged in a protest to combat sexual harassment. This was posted by the Facebook page “Manminista” which was set up to parallel Daranee Thongsiri’s Feminista.

The meme compares two women at the age of 25 – one portrayed as a ‘good’ woman preparing to build a family; the other depicted as a ‘bad’ woman obsessed with going to feminist protests. The meme cites a line in the “Sida Through the Fire” protest song that says, “You are the one that raped us.”

268 Interview by voice call with Panan (Full name withheld for security reasons), queer transgender woman HRD, 12 December 2023.

269 Interview by video call with Daranee Thongsiri, non-binary HRD, 4 December 2023.

270 Interview with Daranee Thongsiri, 4 December 2023. See also a detailed analysis of cybermobbing in Daranee’s own research at Daranee Thongsiri, The digital threat against feminist activists in Thailand: A research report for 2021/2022, 3 February 2023, <https://www.feminista.in.th/post/the-digital-threat-against-feminist-activists-in-thailand-a-research-report>

Amnesty International's research found that the use of hateful and abusive language against women and LGBTI HRDs did not usually take place in an isolated manner, but often accompanied and complemented other methods of online harassment, such as targeted smear campaigns, doxing and threats of violence, as outlined below.

## TARGETED SMEAR CAMPAIGNS

As discussed in Chapter 3 above, prominent HRDs, critics and activists reported experiencing targeted smear campaigns through online platforms and believed these attacks were carried out by state and state-aligned actors. In this research, Amnesty International documented that these campaigns used a tactic in which malicious actors post almost identical text and images at roughly the same time in a coordinated manner to amplify the online attacks against their targets. The ultimate goal of such campaigns is to destroy HRDs' reputations, reduce their credibility, delegitimize their activism and isolate them from the rest of society.

Amnesty International identified that women and LGBTI HRDs experienced such targeted smear campaigns in a unique way because of their SOGIESC. The online attacks against them often relied upon hateful and abusive language filled with misogynistic and homophobic slurs.<sup>271</sup> In addition, the manipulation of information, including the spread of gendered disinformation, was also prevalent.

In the context of Thailand, Amnesty International found that the use of gendered disinformation against women and LGBTI HRDs within the last decade aligns with the description by the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan. The UN expert stated that, "gendered disinformation relies not just on false information but also on existing gender narratives to achieve its social and political goals."<sup>272</sup> She added: "Information is manipulated and amplified with some degree of coordination to reaffirm gender stereotypes, inflame existing bias and prejudices and push overarching negative gender narratives. It is laced with misogynistic and sexualized language and images and may also contain explicit or implicit threats of gender-based violence."<sup>273</sup>

One of the most well-known outlets for targeted smear campaigns against HRDs is the website pulony.blogspot.com ("Pulony website"). Amnesty International investigated the website and found that it published 883 articles between 2011 and 2020. It has been inactive since shortly after the February 2020 parliamentary session. At the time of publication, the website had been visited more than 3.14 million times. Some articles on the website disseminated positive messages about the Thai government's policies in the SBPs. Other articles spread gendered disinformation and used hateful language to smear the reputation of HRDs, including women, working on peace and human rights in the SBPs.<sup>274</sup> Amnesty International also identified articles that either amplified hateful speeches on social media platforms against HRDs or used information about the HRDs' activities on social media to attack them.<sup>275</sup>

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271 Amnesty International's observation aligns with the finding of a 2023 study by MOVE and Chulalongkorn University's Institute of Asian Studies, which concluded through the analysis of social media data that "gender or sexuality-based disparagement" is among the most common type of speech used in "state-sanctioned smear campaigns". See Monitoring Centre on Organised Violence Events (MOVE) and Institute of Asian Studies, Chulalongkorn University, *Unmasking Digital Harassment in Thailand: A Study of Online Smear Campaigns and the Impact on Civil Society*, October 2023, [https://www.the101.world/wp-content/uploads/2023/11/Unmasking-Digital-harassment-in-Thailand\\_FINAL-1.pdf](https://www.the101.world/wp-content/uploads/2023/11/Unmasking-Digital-harassment-in-Thailand_FINAL-1.pdf) p. 22.

272 United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Gendered disinformation and its implications for the right to freedom of expression (previously cited), para. 15.

273 United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Gendered disinformation and its implications for the right to freedom of expression (previously cited), para. 16.

274 Some examples of such articles attacking women HRDs can be accessed on Pulony, 1๓๖?.. คีย์ผู้คุมเบื้องหลังการเคลื่อนไหวของ PerMAS, 19 February 2019, <https://pulony.blogspot.com/search?q=%E0%B8%AD%E0%B8%B1%E0%B8%87%E0%B8%84%E0%B8%93%E0%B8%B2>; Pulony, เป็ดไปไกลคุ้มตัวไกล กับผลงานชิ้นโบว์แดงแห่งปี, 4 January 2018, <https://pulony.blogspot.com/2018/01/blog-post.html>; Pulony, การเคลื่อนไหวของ มูลนิธิประชาชนเพื่อธรรม เพื่ออะไร?, 26 November 2014, [https://pulony.blogspot.com/2014/11/blog-post\\_26.html](https://pulony.blogspot.com/2014/11/blog-post_26.html)

275 See examples at Pulony, สื่อโซเชียลลบล้างภาพลักษณ์. เมื่อ 3 นักสิทธิรณรงค์ถูกข่มขู่คุกคาม และขู่ฆ่า, 9 November 2017, [https://pulony.blogspot.com/2017/11/3\\_9.html](https://pulony.blogspot.com/2017/11/3_9.html) and Pulony, บทพิสูจน์ "กลุ่มหัวใจ", 16 April 2016, [https://pulony.blogspot.com/2016/04/blog-post\\_16.html](https://pulony.blogspot.com/2016/04/blog-post_16.html).

During a parliamentary session in February 2020, a member of the Thai parliament revealed an official document by the ISOC, which includes “reporting on the information operations through the website pulony.blogspot.com from the 2017 to 2019 budgetary years”.<sup>276</sup> Despite this evidence, the Thai government has continued to deny its involvement in running the Pulony website.

Three women HRDs – Pornpen Khongkachonkiet, Angkhana Neelapaijit and Anchana Heemmina (see Case Study 7) – were the main targets of the smear campaigns published on the Pulony website. According to them, Facebook was the main channel for the dissemination of the articles published on Pulony.<sup>277</sup> While Pulony hosts these articles, Facebook accounts and pages – often using fake profiles – were used to increase their circulation.

## CASE STUDY 7

### **ANCHANA HEEMMINA: “THE SMEAR CAMPAIGNS PORTRAYED ME AS A DANGEROUS PERSON”**

Anchana Heemmina is one of the leading Malay Muslim women HRDs in the SBPs. She started her grassroots human rights organization, Duay Jai Group, after her sister’s husband was wrongfully arrested and detained for allegations relating to national security. “That experience helped me realize that Malay Muslims in the south face a lot of discrimination in the justice system and made me want to make changes in this area”.

Women like Anchana Heemmina, who work on human rights and prevention of violence, are often labelled by authorities and anti-human rights individuals as terrorists or insurgents, especially when they peacefully express their dissent.<sup>278</sup>

“The Pulony website would normally publish disinformation about me and use photoshopped pictures of me to support their content. Usually, there will be a network of Facebook pages and accounts that will share these articles further. Sometimes, these articles are sent around via [the instant messaging application] Line. My friends would even reach out to me after getting these articles because they wanted to know if I did bad things as accused. Some people even stopped hanging out with me because the smear campaigns portrayed me as a dangerous person.”

*Continued on next page*

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276 The document was a submission by the ISOC to the Extraordinary Committee set up by the parliament to vet Thailand’s annual budget for 2020. It recorded the ISOC’s activities carried out during the 2017-2019 fiscal year, see <https://mgronline.com/politics/detail/9630000019714>

277 This was a common observation during Amnesty International’s interviews with the three women HRDs.

278 This assessment aligns with the observation with the UN Special Rapporteur on the situation of HRDs. See Special Rapporteur on the situation of HRDs, Situation of women HRDs, 10 January 2019, UN Doc. A/HRC/40/60, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/004/97/PDF/G1900497.pdf?OpenElement> para. 32.

ใคร..? คือผู้ชี้นำประชาชนมาลบลายเกลียดชังเจ้าหน้าที่รัฐ

“แมดิง โกดามาร”



มูลนิธิพัฒนาธรรม, องค์การเครือข่ายส่งเสริมสิทธิมนุษยชนปาตานี (HAP) และกลุ่มด้วยใจ โฆษณาชวนเชื่อชี้นำประชาชนชาวมาลาเลย์ ให้เกลียดชังเจ้าหน้าที่รัฐ

น.ส.อัญชณา ทิมมีหน๊ะ จากกลุ่มด้วยใจ ได้กล่าวถึงการไต่สวนของศาลจังหวัดปัตตานี ครั้งที่ 3 พิจารณาไต่สวนกรณีเหตุนักศึกษาเสียชีวิต 4 ราย จากการติดตามจับกุมและปฏิบัติตามกฎหมายของเจ้าหน้าที่ในพื้นที่ บ้านโคกซูด ม.๖ ต.พิเทน อ.ทุ่งยางแดง จ.ปัตตานี ว่า “แม้การไต่สวนเจ้าหน้าที่เสร็จเรียบร้อยแล้ว แต่เกิดความไม่เข้าใจหลายประการ ถึงวัตถุประสงค์ที่แท้จริงของการไต่สวนการเสียชีวิต การดำเนินการของพนักงานของรัฐ และที่สำคัญคือการสร้างความเป็นธรรมให้กับผู้เสียชีวิต”

An article from the Pulony website entitled “Who are the people misleading Malays to hold hatred against state officials?”

Published on 6 February 2016, the article used Anchana Heemmina’s photo as a cover picture and included content attacking her as an instigator who led “propaganda” against the state among Malay people in order to get foreign funding.

The original post remains accessible at: <https://pulony.blogspot.com/2016/02/blog-post.html>

Anchana Heemmina uses Facebook regularly for her activism, both through her personal account and the Duay Jai Group’s official page. “The [social media] platform is useful, but it also exposed me to a lot of online attacks by anonymous accounts. They would say I am a sympathizer of the armed groups or use slurs like ‘auntie’, ‘fat’ and ‘old’. I noticed that they would often attack women with comments about our appearances.” She told Amnesty International she suspects that most attacks against her are part of the state-backed IOs, given that the nature of her work directly addresses and criticizes human rights violations committed by state officials.

Anchana Heemmina also believes that the military and police authorities have been consistently monitoring and surveilling her social media activities. “Whenever I post something they don’t like, the IO attacks against me will follow shortly. Sometimes, soldiers from the Santisook Task Force and police officers from the Border Patrol Police even showed up at my house to intimidate me when I published any posts critical of the military,” she said.

Prominent woman HRD and former national human rights commissioner of Thailand, Angkhana Neelapaijit, faced a similar smear campaign. She explained to Amnesty International that she was also targeted using disinformation through the Pulony website. “In the Pulony website, sometimes there will be articles about an issue completely unrelated to me, but they would put up my photo to allege that I have connections with someone or something they want to attack.”<sup>279</sup>

279 Interview in person with Angkhana Neelapaijit, woman HRD, 10 November 2023, Bangkok.

อดีตนักสิทธิฯ กลุ่มPerMAS หัวหน้าพรรคประชาชาติ "คนละบ้าน แต่มุ่งเดียวกัน"



จากเหตุการณ์สลด คนร้ายไม่ทราบจำนวน ยิงใส่จุดตรวจ ชรบ. ม.5 ต.สาพะยา และจุดตรวจ อส.ชุด ชุด. บ้านทุ่งสะเวลา ม.5 ต.สาพะยา เป็นเหตุให้มีผู้เสียชีวิต จำนวน 15 ราย ใต้ร่มกาเหว่า จำนวน 4 ราย เมื่อ 5 พ.ย.2562 เวลา 22.15 น. นายเชื่อว่า เป็นการกระทำของกลุ่มผู้ก่อเหตุรุนแรงในพื้นที่ จชต. หลายฝ่ายประณามเหตุรุนแรงครั้งนี้ และกดดันกลุ่มการเมืองภาคประชาสังคมให้ออกมาแสดงจุดยืนหรือร่วมประณามกลุ่มผู้ก่อเหตุรุนแรง จนปรากฏการออกมาแถลงการณ์ดังนี้

คุณอังคณา นีละไพจิตร อดีตนักสิทธิมนุษยชน เหตุการณ์เชิงธุรกิจความเปลือยภัยหมู่บ้าน (ชรบ.) ทำให้มีผู้เสียชีวิต 15 ศพและบาดเจ็บอีก 4 คน ที่สาพะยาเป็นเหตุการณ์ที่สร้างความเจ็บปวดใจมายังคนทั่วประเทศ ชรบ. ออ. และ อส. คือเป็นกองกำลังติดอาวุธฝ่ายพลเรือน ที่จัดตั้งโดยกระทรวงมหาดไทย โดยขาดหลักในประชาชนปกป้องตัวเอง ทำหน้าที่คุ้มครองหมู่บ้าน รวมถึงเป็นกำลังเสริมในการปฏิบัติหน้าที่ของเจ้าหน้าที่ทหารและตำรวจ ต้องยอมรับจากกำลังพลเรือนเหล่านี้เป็นเวลาสามปีครึ่ง ได้รับการฝึกฝนโดยทั้งเรื่องการใช้อาวุธและขาดอุปกรณ์ต่างๆในการปฏิบัติหน้าที่ เรื่องนี้ทุกฝ่ายคงต้องถามตัวเองว่า #นอกจากการออกมาประณามผู้ก่อเหตุ และสร้าง #FakeNews #เพื่อสร้างความเกลียดชังต่ออดีตนักปกป้องสิทธิฯ การสร้าง #Cเพื่อสร้างความเกลียดชังกับนักสิทธิมนุษยชน ซึ่งไม่ต่างอะไรกับการข่มขู่ความเคียดในคนทำงานสิทธิฯ ทั้งที่ #รัฐเองมีหน้าที่ในการปกป้องสิทธิในชีวิตของบุคคลทุกคน (รัฐดูแลประชาชนทั้งประเทศ คุณอังคณา คุณเลอโร)

Example of multiple articles published between 2015 and 2019 spread disinformation alleging that Angkhana Neelapaijit was using her role as a HRD to advance the hidden separatist agenda of insurgent groups in the SBPs.

The original articles are accessible at:

<https://pulony.blogspot.com/2019/11/blog-post.html>

<https://pulony.blogspot.com/2015/04/brn-bipp-permas.html>

<https://pulony.blogspot.com/2019/02/permas.html>

Pornpen Khongkachonkiet, who works closely with survivors of torture and other ill-treatment in the SBPs, told Amnesty International that her name was also mentioned in articles posted on the Pulony website.<sup>280</sup> Moreover, as an active social media user, she often posted publicly on Facebook and Twitter about human rights in the SBPs. As a result, she was frequently attacked by anonymous accounts using misogynistic slurs and calling her a “prostitute”, or making degrading sexualized comments such as “[a]re you sleeping with a Muslim man?”<sup>281</sup>

The Pulony website is just one of many platforms used to conduct smear campaigns against women and LGBTI activists and HRDs advocating for democracy. For example, in December 2020 a viral post was shared on the Line application about a leaked group chat describing how a senior police officer instructed his team to launch a smear campaign against prominent academic and critic, Pavin Chachavalpongpun. The chat instructed officials to disseminate information accusing Pavin Chachavalpongpun of attempting to “topple the monarchy,” calling him “a fugitive (with the emphasis that he should not have had to run away from Thailand, if he had not done anything wrong)”, and “a dangerous person and a homosexual.”<sup>282</sup> While Amnesty International has been unable to verify the authenticity of this chat, Pavin Chachavalpongpun told Amnesty International that he consistently received comments and messages attacking him with homophobic slurs and continued to do so at the time of publication.<sup>283</sup>

280 Interview by video call with Pornpen Khongkachonkiet, woman HRD, 14 November 2023.

281 Interview with Pornpen Khongkachonkiet, 14 November 2023.

282 Bright TV, แชร่วอน: แชนหูลุดองทัพบกชายพลัส ไอโอ รัฟฟอร์ด - โจมตีสนธิชยทางเพศ ปวิน, 2 December 2020, <https://www.brighttv.co.th/news/politics/pavin-io>.

283 Interview by video call with Pavin Chachavalpongpun, 14 December 2023.

He said:

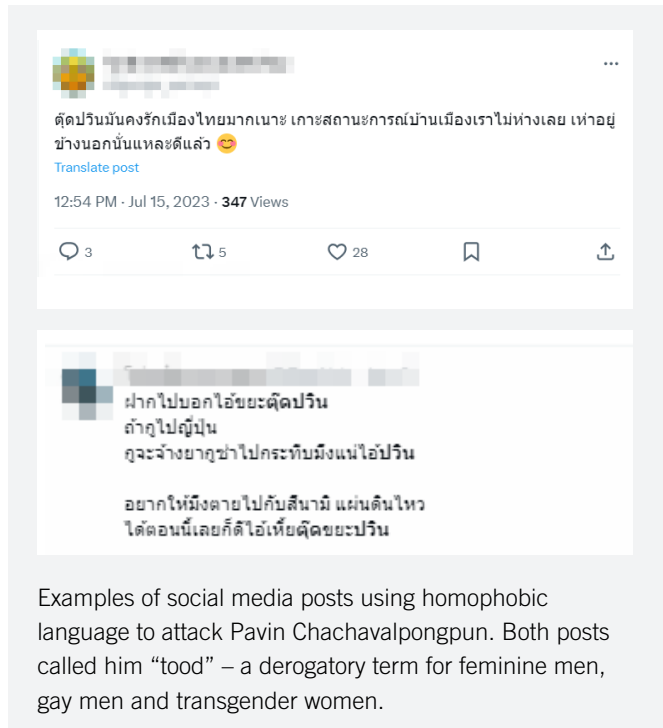
***“In my observation, the Thai state apparatus has not quite figured out how to handle the rising number of LGBTI dissidents, so they resorted to the old trick of using homophobic language to attack us. It’s a tired trope, and I think the attacks are probably all coordinated and inauthentic, so I try not to let it affect me.”***<sup>284</sup>

Similarly, protest leader Panupong Maneewong told Amnesty International that a pro-government Facebook page had crafted a fake story which stated that he had become a protest leader because he wanted to be imprisoned so that he could go into a male prison to find love. “This information is false. It trivialized my activism, and it was simply homophobic,” he said.<sup>285</sup>

Amnesty International’s national entity in Thailand has also been subjected to targeted smear campaigns. During the heightened political tensions in 2021, Amnesty International Thailand came under fire from smear campaigns that spread disinformation and employed nationalist rhetoric to attack the organization through conservative media outlets and social media platforms. These actors focused on popularizing the narrative that Amnesty International Thailand was driving a hidden agenda to use “foreign funding” to fuel conflicts among Thai people, destabilize the monarchy and undermine the country.<sup>286</sup>

These actors focused on popularizing the narrative that Amnesty International Thailand was driving a hidden agenda to use “foreign funding” to fuel conflicts among Thai people, destabilize the monarchy and undermine the country.<sup>286</sup>

Campaigns attacking Amnesty International Thailand escalated in November 2021 when former Prime Minister Prayut Chan-o-cha ordered the Royal Thai Police and the Ministry of the Interior to carry out an investigation against the organization.<sup>287</sup> According to the former Prime Minister, Amnesty International Thailand engaged in “smearing” the reputation of Thailand.<sup>288</sup> Led by Seksakol Atthawong, a former vice-minister in the Office of the Prime Minister, anti-human rights groups staged protests in Bangkok calling for Amnesty International Thailand to “get out” of the country during that period.<sup>289</sup> By February 2022, Seksakol Atthawong claimed to have gathered 1.2 million signatures in support of the expulsion of Amnesty International Thailand.<sup>290</sup>



Examples of social media posts using homophobic language to attack Pavin Chachavalpongpun. Both posts called him “tood” – a derogatory term for feminine men, gay men and transgender women.

284 Interview with Pavin Chachavalpongpun, 14 December 2023.

285 Interview by voice call with Panupong Maneewong, gender-diverse HRD and protest leader, 13 December 2023.

286 BBC Thai, “เอนเนสตี้: ‘เรามา’ เดิมพันลำแต่มง-ล่าล้านหรือ ‘ประชาชนปกป้องสถาบัน’ ขับไล่ออนเนสตี้ฯ พันไทย” 25 November 2021, <https://www.bbc.com/thai/thailand-59412925> (in Thai).

287 MGR Online, “มี‘ตุ๊ด’ สังก สชช.- มท.ชูช้อกฏหมายจัดการเอนเนสตี้ฯ ถ้าทำผิดเจอนไขต้องชกเลิก” 26 November 2021, <https://mgronline.com/politics/detail/9640000117410> (in Thai).

288 The Standard, “ประยุทธ์ เสด็จลี้ภัยตรวจสอบ ‘เอนเนสตี้’ มอจึงให้ร้ายประเทศ ส่วนกฏหมายคุมเอ็นจีโอ กักรอเข้าสภา” 26 November 2021, <https://thestandard.co/prayut-say-investigating-amnesty/> (in Thai).

289 The Guardian, “Amnesty faces pressure to leave Thailand amid ‘growing intolerance’”, 17 February 2022, <https://www.theguardian.com/world/2022/feb/17/amnesty-faces-pressure-to-leave-thailand-amid-growing-intolerance>

290 VOA Thai, “ที่ปรึกษานายกฯ เตรียมยื่น 1.2 ล้านรายชื่อ ขอขับ ‘เอนเนสตี้’ ออกจากไทย, 12 February 2022, <https://www.voathai.com/a/thai-pm-aide-seeks-expel-rights-group-amnesty-international-thailand/6438339.html> (in Thai).

This campaign did not lead to any legal action against Amnesty International Thailand. However, the climate of hostility against the organization led to personal attacks against Amnesty International Thailand's woman executive director, Piyanut Kotsan, having a long-lasting impact. She said:

“Our office has been a target of online and offline attacks multiple times due to the controversial nature of our work. We have received a number of hate comments whenever we posted content on our Facebook page related to the rights of Rohingya people or the abolition of the death penalty. At the height of our public campaign related to the death penalty in 2018, our Facebook account was bombarded with antagonistic comments, and some internet users were trying to find out the identities of our staff members.”<sup>291</sup>

The most recent round of attacks took place amid the rise of pro-democracy protests in 2020. Piyanut Kotsan continued: “Our organization advocates for the right to peaceful assembly for all, including children. Those opposed to the protest movement saw us as part of the protest movement and started launching campaigns to shut down our office”.<sup>292</sup>

She also faced a series of targeted attacks against her on social media platforms. “I am aware of the risks associated with working for Amnesty International, so I decided to be the only spokesperson for my office. This is why all the online attacks against our organization have been directed towards me,” she explained. Social media users – many of whom Piyanut Kotsan suspected to be part of state-led IOs to smear her reputation – use gendered language and slurs to attack her. “Being a woman leader of a human rights organization comes at a high cost,” she said.<sup>293</sup>

Nationalist discourse has also shaped the language used to attack Piyanut Kotsan. This is because the smear campaigns propagate conspiracy theories; for example, that Amnesty International Thailand has an ulterior motive to destabilize the Thai government. As the former Special Rapporteur on the situation of HRDs, Michael Forst, reported to the UN Human Rights Council in 2019, women HRDs globally sometimes receive accusations of “being anti-national or foreign agents who are spreading foreign ideas and practices.”<sup>294</sup> Similarly, Piyanut Kotsan received comments that she had sold her soul in exchange for money from foreign donors and become the “white foreigner’s puppet”.<sup>295</sup>

In March 2021, Amnesty International Thailand launched a project ‘Child in Mob’ to provide support for child protesters. Following the launch, Piyanut Kotsan’s photo was posted on a state-aligned news page. In the comment section, many users attacked her physical appearance by calling her a “buffalo”, which is considered a derogatory term in Thai. Other users posted photoshopped pictures of her or said that she should be raped.

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291 Interview by video call with Piyanut Kotsan, executive director of Amnesty International Thailand, 15 December 2023.

292 Interview with Piyanut Kotsan, 15 December 2023.

293 Interview with Piyanut Kotsan, 15 December 2023.

294 Special Rapporteur on the situation of HRDs, Situation of women HRDs (previously cited), para. 30.

295 See the following article illustrating a common conspiracy theory against Amnesty International in Thailand: Plew See Ngern, (แอมเนสตี้) ทั่วโลก-ประชา สัจฉิน, 23 November 2021, [https://plewseeengern.com/plewseeengern/75119?fbclid=IwAR0xOiyZHjZPSN5A\\_iqhjO\\_P4wGDt\\_IpOHCgPyusWTdBcK6-hY15hDt\\_vOk](https://plewseeengern.com/plewseeengern/75119?fbclid=IwAR0xOiyZHjZPSN5A_iqhjO_P4wGDt_IpOHCgPyusWTdBcK6-hY15hDt_vOk) (in Thai).





Examples of hate comments received by Piyanut Kotsan following Amnesty International Thailand's "Child in Mob" project.

Post remains accessible at: <https://www.facebook.com/thvi5ion/photos/a.336789590593208/788982982040531/>

Alongside the online attacks, Piyanut Kotsan was summoned on several occasions to meet with police officers; most recently when Amnesty International Thailand initiated its 2021 campaign calling for the authorities to drop charges against Panusaya Sithijirawattanakul, the prominent protest leader also interviewed for this report.<sup>296</sup>

Piyanut Kotsan said: "Often when I met with authorities, they would make threats about the stability of Amnesty International's presence in Thailand. These threats are complementary to the constant online harassment against me – it's how authorities want to silence Amnesty International staff."<sup>297</sup>

Piyanut Kotsan has also observed the authorities physically monitoring Amnesty International Thailand's activities and attempting to gather her personal information. "It is not unusual for me to receive calls from police officers," she said.<sup>298</sup> On one occasion, a police officer from Maharakam province called her to ask if her mother was staying at home alone. In another example, an officer from one of the security agencies told her that he had been tasked by his superior to follow her around.<sup>299</sup>

These smear campaigns exemplified how women and LGBTI HRDs regularly faced coordinated attacks aimed at undermining their credibility.<sup>300</sup> As shown in the case studies above, the attacks aimed at reducing the HRDs' outreach and influence, which had direct impacts on their ability to advocate for human rights changes.

296 Interview with Piyanut Kotsan, 15 December 2023.

297 Interview with Piyanut Kotsan, 15 December 2023.

298 Interview with Piyanut Kotsan, 15 December 2023.

299 Interview with Piyanut Kotsan, 15 December 2023.

300 United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Gendered disinformation and its implications for the right to freedom of expression (previously cited), para. 48.

## DOXING

Amnesty International defines doxing (slang for ‘docs’ or ‘documents’) as revealing personal or identifying documents or details about someone online without their consent and with the aim to cause alarm or distress.<sup>301</sup> In this research, Amnesty International found that malicious unidentified actors have used doxing against numerous women, girls and LGBTI activists as a tactic of public shaming and intimidation.

Non-binary HRD and feminist activist Nitchakarn Rakwongrit described being subjected to doxing on social media platforms. The young HRD started out their activism in 2020 when they were a 17-year-old high-school student.<sup>302</sup> They started their own group called Feminist FooFoo which promotes the rights of LGBTI youth and children, and actively participates in the activities of other feminist groups.<sup>303</sup> According to TLHR, Nitchakarn Rakwongrit faced at least six criminal charges due to their involvement in peaceful protests, including charges under the Emergency Decree.<sup>304</sup>

Nitchakarn Rakwongrit became publicly known for their symbolic act of protest against the government when they shaved their head while wearing a school uniform on stage during a peaceful protest in Bangkok on 9 October 2021.<sup>305</sup> During many pro-democracy protests, they also led Sida Lui Fai (Sida’s Walk Through the Fire) performances to criticize sexual violence against women, the government’s inactions, and the prevalent victim-blaming culture in Thai society.<sup>306</sup> However, they did not feel completely safe at physical protests. They said they once attended a protest where a male activist put up a banner saying, “No feminist zone,” suggesting that feminists were not welcomed in that space.<sup>307</sup>

Nitchakarn Rakwongrit deliberately resorted to spending more time conducting online activism to search for a more inclusive space but was further exposed to violence that left them feeling excluded from public activism on gender justice.



Screenshot of the tweet of 8 August 2021 that doxed Nitchakarn Rakwongrit and other young activists (see page 66). The caption can be translated into English as: “Congratulations, [you] have criminal records with the police, so you can no longer become civil servants or work in a big company.”

301 Amnesty International, *#ToxicTwitter: Violence and Abuse against Women Online* (Index: ACT 30/8070/2018), 21 March 2018, <https://www.amnesty.org/en/documents/act30/8070/2018/en/> p. 29.

302 Interview in person with Nitchakarn Rakwongrit, non-binary HRD and youth feminist activist, 28 August 2023, Bangkok.

303 Interview with Nitchakarn Rakwongrit, 28 August 2023.

304 TLHR, การต่อสู้ที่เข็ญอกว่าเราไม่ได้คิดเสีย: ลูกกับ “นีนี่” นักกานต์ เขวามันผู้ร่วมสัจจลขุฟ สู่การก่อสังฆนพ, 30 June 2022, <https://tlhr2014.com/archives/45426> (in Thai)

305 Maticon TV, นาคี “นัจมัจนัจ” โคนศัจระประนัจง สัจจะนัจไม่ใ่วัจม จนกว่า “นัจคัจ” จะลัจกนัจนัจ, 10 October 2021, <https://www.youtube.com/watch?v=ILOFG94KZMs>

306 Thai PBS World, “Sida Lui Faai – Thai feminists move against oppression”, 16 November 2020, <https://www.thaipbsworld.com/sida-lui-faai-thai-feminists-move-against-oppression/>

307 Interview with Nitchakarn Rakwongrit, 28 August 2023.

On 8 August 2021, an anonymous X user posted a picture of young activists, including Nitchakarn Rakwongrit, with details including their ID card numbers, full names and criminal charges as well as a diagram illustrating their involvement in different protest actions.<sup>308</sup> The picture appeared to have come from a police file (see image on page 67).

Nitchakarn Rakwongrit told Amnesty International: “I was just a kid back then. Having my personal information exposed on the internet like that was frightening”.<sup>309</sup>

Panusaya Sithijirawattanukul and Niraphorn Onnkhaow told Amnesty International that, in 2020, a pro-government Facebook page publicly posted photos and personal information, including the full names, of UFTD members. Niraphorn Onnkhaow said: “I have no idea how they obtained that information because it included some people who did not reveal to the public that they played a role in the protest movement. It was a clear attempt to scare us and make us stop organizing protests.”<sup>310</sup>

In another example, Pavin Chachavalpongpun experienced stalking offline, after which the stalker posted his photos in December 2020 through an anonymous account on Twitter. The photos were taken during Pavin Chachavalpongpun’s daily commute from his residence to his workplace.<sup>311</sup> The tweets made sexualized comments about Pavin Chachavalpongpun’s private life, and some included the hashtag #Support112, a reference to the lèse-majesté law under Article 112 of the Thai Criminal Code.

These tweets were further circulated by The Mettad, a state-aligned Facebook page that routinely attacks Pavin Chachavalpongpun and other pro-democracy activists and HRDs.<sup>312</sup> This instance of doxing was particularly concerning as Pavin Chachavalpongpun had previously been physically assaulted at his home in Japan. On 8 July 2019, a Japanese man broke into his home and attacked him and his partner with a chemical spray. Japanese authorities arrested the man, who admitted to committing the attack upon an order of his superior whom he refused to name. In another incident, on 2 December 2020, Japanese police officers arrested another man who confessed to having been hired to monitor Pavin Chachavalpongpun’s home.<sup>313</sup>

These incidents underscore the broader implications of TfGBV, where online targeting of individuals translates into real-world threats. The private data exposed in the online space could compromise the physical safety of those engaged in human rights advocacy. Pavin Chachavalpongpun told Amnesty International: “Nowhere is completely safe anymore.”<sup>314</sup>



308 Interview with Nitchakarn Rakwongrit, 28 August 2023.

309 Interview with Nitchakarn Rakwongrit, 28 August 2023.

310 Interview with Niraphorn Onnkhaow, 13 November 2023.

311 MGR Online, บุคคลลึกลับแอบถ่าย “ปวิน” ที่กินข้าวโต, 11 December 2020, <https://mgronline.com/onlinesection/detail/9630000126905>.

312 See the Facebook post at [https://www.facebook.com/themettdad/photos/a.899002516915057/1802227043259262/?type=3&ref=embed\\_post](https://www.facebook.com/themettdad/photos/a.899002516915057/1802227043259262/?type=3&ref=embed_post)

313 Bangkok Post, “Japanese man jailed for attacking Thai dissident”, 8 June 2022, <https://www.bangkokpost.com/thailand/general/2322574/japanese-man-jailed-for-attacking-thai-dissident>

314 Interview by video call with Pavin Chachavalpongpun, prominent scholar and critic, 14 December 2023.

Amnesty International is unable to identify how the private data of HRDs was used following targeted digital surveillance. Nevertheless, the cases of Panusaya Sithijirawattanukul, Niraphorn Onnkaow and Pavin Chachavalpongpun show that many of those who were attacked by Pegasus spyware or had their Facebook accounts compromised also experienced doxing on social media platforms.

This research also established that many LGBTI HRDs in the Muslim community also encountered doxing as a means of reprisal against their activism on gender equality. In 2013, LGBTI activists set up Buku Classroom, a non-profit organization working on LGBTI rights in Pattani Province, one of Thailand's SBPs.<sup>315</sup> Opponents of the group who disagreed with LGBTI rights for religious reasons circulated photos of the activists affiliated with the group on social media, in order to expose their personal information including full names and home addresses.<sup>316</sup> Some of the activists were subsequently visited at home by individuals who disagreed with their activities as a “warning”.<sup>317</sup>

Aitarnik Chitwiset, a Muslim transgender woman HRD, told Amnesty International that many men strongly opposed her activism on LGBTI rights within the Muslim community. They dug up her personal information and exposed it on social media platforms to humiliate her. “I first spoke out about LGBTI rights in the Muslim community on Clubhouse [an audio chatting application]. Since then, these men – mostly young religious students from the SBPs – have posted on their Facebook accounts my old photos before I transitioned to shame me. They wanted me to be too embarrassed to continue my activism on this issue.”<sup>318</sup>

These case studies highlighted an alarming trend in which the personal information of women and LGBTI HRDs were exposed in the public digital sphere as a response to their activism. This malicious practice has had profound impacts in jeopardizing their well-being and safety.

## THREATS OF GENDERED VIOLENCE

Amnesty International documented that many women and LGBTI HRDs received threats of violence through social media platforms both by means of public posts and comments and by private, direct messages. Such threats described the use of force, killing and sexual assault.

In February 2017, Buku Classroom started experiencing a large-scale backlash against their work on gender equality in the SBPs on social media platforms with accusations that their activities were “preaching homosexuality” and “fostering conflicts instead of peace” in the region.<sup>319</sup> Some opponents of the group even urged armed militants involved in the insurgency to put an end to their activities.<sup>320</sup> In April 2021, the group was forced to close.<sup>321</sup>

In more recent examples, Amnesty International found that LGBTI HRDs who spoke out about LGBTI rights within the Muslim community continued to face a violent backlash online due to their activism. For example, in June 2022, Nada Chaiyajit, Aitarnik Chitwiset and Manun Wongmasoh – three Muslim HRDs – gave a media interview for online news outlet The Matter about anti-LGBTI discrimination within the Muslim community.<sup>322</sup> They later received a series of threats of violence, including killing, from individuals who disagreed with their advocacy on gender equality for religious reasons.

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315 Christian Giraldo, “An oasis for the queer women’s movement in Thailand’s deep south”, 1 June 2018, <https://ajws.org/blog/an-oasis-for-the-queer-womens-movement-in-thailands-deep-south/>

316 Anticha Sangchai, กรณีห้องเรียนเพศวิถี: สำนึกความหลากหลายทางเพศ กับชายแดนใต้ปาตานี (“SOGIE Rights and Thailand’s Southern Border Provinces/Patani: The Case of Buku’s Gender and Sexuality Classroom”), *Thammasat Journal of History*, 30 June 2017, p. 214.

317 Cross Cultural Foundation, CrCF ขบวนการ: เกิด แก่ เจ็บ ไม่ตาย เมื่อวันที่วันหนึ่งหนังสือ “บุญ” บัดคิว กับก้าวต่อไปที่ ดร. อันธิดา ภาคหวัง, 3 April 2021, <https://crctfthailand.org/2021/04/03/15598/>

318 Interview in person with Aitarnik Chitwiset, transgender woman HRD, 28 August 2023, Bangkok.

319 The organization further set up a bookstore, classes on gender equality and a football club called Buku FC with the aim to provide a safe space for LGBTI people and women in the region. See Prachatai, คำขวัญจาก ‘อันธิดา แสงชัย’ กรณีห้องเรียนเพศวิถี ที่ร้านหนังสือบุญ, 12 February 2017, <https://prachatai.com/journal/2017/02/70047> and Anticha Sangchai, กรณีห้องเรียนเพศวิถี: สำนึกความหลากหลายทางเพศ กับชายแดนใต้ปาตานี (previously cited), p. 214.

320 Anticha Sangchai, กรณีห้องเรียนเพศวิถี: สำนึกความหลากหลายทางเพศ กับชายแดนใต้ปาตานี (previously cited), p. 214.

321 Cross Cultural Foundation, CrCF ขบวนการ: เกิด แก่ เจ็บ ไม่ตาย เมื่อวันที่วันหนึ่งหนังสือ “บุญ” บัดคิว กับก้าวต่อไปที่ ดร. อันธิดา ภาคหวัง (previously cited).

322 Interview in person with Manun Wongmasoh, transgender woman HRD, 23 August 2023, Bangkok.

Nada Chaipayit, who identifies as an intersex transgender woman and works as professor of law at Mae Fah Luang University in northern Thailand, said an anonymous Facebook user messaged her asking: “Do you want to go see the God now?” She also received messages with only pictures of guns and swords which she interpreted as threats of violence against her.<sup>323</sup> Aitarnik Chitwiset continues to be targeted with online harassment through her social media accounts. She told Amnesty International: “Every day is a living nightmare for me because these harassments are never-ending.”<sup>324</sup> For Manun Wongmasoh, the online harassment also translated into direct intimidation by family members who disapproved of her activism and her identity as a transgender woman (see Case Study 8).

## CASE STUDY 8

### **MANUN WONGMASOH: “THEY SAID THAT I SHOULD DIE IF I CAN’T STOP BEING TRANS”**

Manun Wongmasoh is a transgender woman HRD working as a campaigns officer at Amnesty International Thailand. She is also an independent advocate for the protection of Muslim LGBTI people in Thailand.

Born into a religious family in Nakhon Nayok province, central Thailand, Manun Wongmasoh described her experiences of anti-trans discrimination within her community: “I was bullied and harassed a lot in my religious school by both other students and teachers. My parents sent me there anyway because they thought it could convert my gender identity.” When she was in high school, her family asked her to leave their house because of her transgender identity. “I had to work and pay for my own education since I was just a child. I remember one day I didn’t have any money to buy myself food, so I called my parents to ask for their help. They declined and told me, ‘If you want to live this kind of lifestyle, you must make your own living’.”<sup>325</sup> This experience inspired Manun Wongmasoh to undertake her activism in the belief that some Islamic principles have been distorted and weaponized against LGBTI people who practice Islam.

After Manun Wongmasoh joined two other transgender women HRDs to give an interview about LGBTI rights in the Muslim community, the video of their interview became viral, attracting more than 324,000 views on Facebook<sup>326</sup> and 30,000 views on YouTube.<sup>327</sup> The three women subsequently faced an offline and online backlash by internet users, primarily male teenagers, which included anti-LGBTI comments and private messages to their personal social media accounts’ inboxes.

*Continued on next page*

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323 Interview by video call with Nada Chaipayit, intersex transgender HRD, 23 November 2023

324 Interview in person with Aitarnik Chitwiset, transgender woman HRD, 28 August 2023, Bangkok.

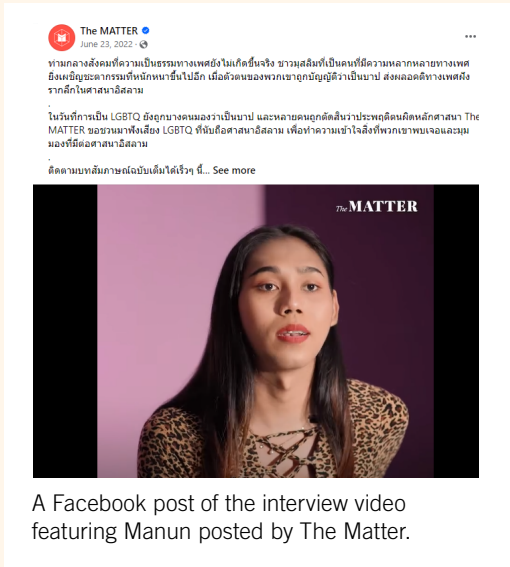
325 Interview with Manun Wongmasoh, 23 August 2023.

326 See the video of the interview on Facebook at <https://www.facebook.com/thematterco/videos/1567726933622581/>

327 See the video of the interview on YouTube at <https://www.youtube.com/watch?v=bKfNvPWHgAE>



Manun Wongmasoh has also received many direct messages with threats of violence or sexual harassment. “Some guys threatened to kill me. Others also sent me messages to say they wanted to see my breasts.”<sup>328</sup> In addition, she told Amnesty International: “My friends told me they saw my picture posted in a Facebook group for Muslims in the SBPs. Many people said in the comment section they would try to hurt me if I ever go to that region of the country.”



“When my relatives saw my interview with The Matter, they were infuriated and kept calling me and sending me text messages to attack me. They said that I should die if I can’t stop being trans. They also pressured my mother every day to persuade me to change my identity.”<sup>329</sup>

In a similar incident, a Muslim gender non-conforming HRD gave a speech during a protest in 2020 about LGBTI rights in the Muslim community. He then gave an interview to an online media channel about the same issue to expand on his protest speech. “As soon as the article was published online, it started making a buzz. Famous ‘Muslim influencers’ started to post on social media platforms to attack me for allegedly distorting the religion.”

He told Amnesty International: “Some religious friends also decided to start distancing themselves and stop interacting with me. Shortly after, my extended family started to share this article on their group chat, threatening my family and questioned why I gave the interview about this controversial issue.”<sup>330</sup> He has since decided to stop public activism about this issue to avoid any more pressure from his family.

Through these case studies, this research found that activism on gender justice could provoke serious reprisals, including online threats of violence against those who spoke out about this issue. Such threats serve to intimidate and control women and LGBTI people, as well as their expressions and to reinforce heteropatriarchal power structures.<sup>331</sup>

328 Interview with Manun Wongmasoh, 23 August 2023.  
 329 Interview with Manun Wongmasoh, 23 August 2023.  
 330 Interview with a gender non-conforming activist (real name withheld for security reasons), 9 January 2024.  
 331 SR on VAW, Report on online violence against women and girls from a human rights perspective (previously cited), paras 30-31.

## 5.3 THE ENTRENCHMENT OF IMPUNITY

In addition to enduring profound harm as a result of targeted digital surveillance and online harassment, women and LGBTI HRDs encountered multiple barriers to justice in part as a result of the government's refusal to fully investigate allegations of state involvement in the specific instances of TfGBV. The HRDs sought redress aiming to hold the perpetrators accountable. Yet the gender insensitivity of the criminal justice process and the ineffectiveness of judicial and non-judicial mechanisms has resulted in the entrenchment of impunity for TfGBV.

### 5.3.1 THE GOVERNMENT'S DENIAL OF INVOLVEMENT

***"[W]e all know only states can buy Pegasus... Everyone knows, but we don't have any clear proof. It's an open secret."***<sup>332</sup>

Benja Apan, protest leader

The Thai government has denied its involvement in targeted digital surveillance and online harassment against women and LGBTI HRDs. In particular, authorities publicly responded to allegations related to the use of Pegasus spyware and targeted smear campaigns against HRDs by categorically refusing to acknowledge any connection to these specific cases.

Immediately after the release of findings about the use of Pegasus spyware in Thailand, government leaders provided inconsistent explanations. Initially, the then Minister of Digital Economy and Society Chaiwit Thanakamansorn admitted during a parliamentary debate on 19 July 2022 that he was aware that "the spyware is used for matters related to national security or narcotics suppression... but its deployment is very limited to special or important cases".<sup>333</sup>

On 21 July 2022, then-Deputy Defence Minister Chaicharn Changmongkol offered a contradictory explanation when he said that he "confirm[ed] that the government does not have a policy to use IOs or spyware that can affect the rights of ordinary citizens".<sup>334</sup> One day later, the Minister of Digital Economy and Society reportedly retracted his earlier statement and claimed that he only knew of the system and did not acknowledge that such surveillance was undertaken in Thailand.<sup>335</sup> Similarly, then-Prime Minister Prayut stated he did not know what Pegasus was and said that the government did not need to use the spyware because they could simply monitor social media platforms for gathering intelligence.<sup>336</sup>

In the same manner, Thai authorities denied that they engaged in online harassment against HRDs, activists and dissidents through IOs, despite the publication of reports from Meta and X which found the RTA and ISOC to be involved in such operations. For example, on 27 February 2020 ISOC representatives held a public conference to deny that they provided financial support for running the Pulony website, which regularly launches smear campaigns against HRDs working on issues related to the SBPs.<sup>337</sup> The ISOC admitted the authenticity of the document that mentions "reporting on the information operations through the website pulony.blogspot.com" (see section 5.2.2 above).<sup>338</sup> However, it claims that the ISOC was only monitoring this website for intelligence purposes.<sup>339</sup>

332 Interview in person with Benja Apan, woman HRD and protest leader, 26 August 2023, Bangkok.

333 iLaw, "Bangkok Drift รวมวีรภาวะฝ่ารัฐบาลว่าด้วยเพกาซัส" 22 July 2022, <https://ilaw.or.th/node/6198>

334 The video of Chaicharn Changmongkol's statement is available at <https://twitter.com/iLawclub/status/1550123155427332096>

335 iLaw, "Bangkok Drift" (previously cited).

336 iLaw, "Bangkok Drift" (previously cited).

337 Maticchon Online, 'ทอ.รมน.' แจง 'ไม่เกี่ยวข้องปม Pulony' ไม่เคยจ้าง เคยแค่เฝ้าระวังมออย่างยาวนาน เผยไม่ได้เกิดยุคทอ.ฯ., 27 February 2020, [https://www.maticchon.co.th/politics/news\\_2010007](https://www.maticchon.co.th/politics/news_2010007)

338 Isra News, "ส่อง pulony.blogspot ผู้รับงบสนับสนุน ทอ.รมน. ยุค นิตินุ? ยอดดู 2.7ล. แปลได้หลายตีความ", 26 February 2020, [https://www.isranews.org/content-page/item/85974-report01\\_85974.html](https://www.isranews.org/content-page/item/85974-report01_85974.html) (in Thai).

339 Bangkok Post, "Army must stay neutral", 29 February 2020, <https://www.bangkokpost.com/opinion/opinion/1868219>

In response to X's suspension of accounts linked to the RTA in October 2020, Colonel Sirichan Ngathong, the Army's deputy spokesperson, criticized X as follows: “[The investigation] may provide an unfair conclusion for the RTA because its assessment lacks in-depth analyses. These accounts are anonymous and unrelated to the RTA's official account. The information provided in the investigation only discussed the content disseminated by these accounts, the number and frequency of posts, and hashtags used. Ordinary users could independently engage in [such online activities] independently”.<sup>340</sup>

Amnesty International notes that the government did not only adamantly reject the allegations of its involvement in TfGBV. There has also been a notable lack of effort to carry out an effective investigation to uncover the truth, which reflects the official disregard for accountability in these cases.

### 5.3.2 LACK OF GENDER SENSITIVITY IN THE JUSTICE PROCESS

Amnesty International documented gender insensitivity in the Thai criminal justice system. Angkhana Neelapaijit told Amnesty International that when she first learned about the smear campaigns against her, she went to her local police station and the Technology Crime Suppression Division to submit a complaint. She recounted her experience:

***“I printed out all the comments that attacked me and handed them to the cyber police. An officer asked me to sit down and underline parts that I regarded as harassment. That process was extremely traumatizing as I had to reread through these hurtful comments. I don’t understand why the police could not read the files themselves. It’s clear the justice system does not protect victims and the responsible authorities have no gender lens.”<sup>341</sup>***

Muslim transgender woman HRD Manun Wongmasoh told Amnesty International that this lack of gender sensitiveness in the police process discouraged her from filing police complaints about the online death threats against her. “When I was a university student in Pattani Province, I received a threat from an anonymous Facebook account saying that they would abduct and kill me just because I hosted a beauty pageant for LGBTI students. I went to the police, but the officers told me to find all the evidence, including the attacker’s identity, for them. They thought online harassment was normal and did not need to be taken seriously, so they did not investigate it. That’s why after I received threats this time [in 2022], I did not want to file a police complaint anymore.”<sup>342</sup>



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340 Voice TV, 'กองทัพบก' ปฏิเสธ IO 'ทวิตเตอร์อาชญากร' ต้นไม้ไซเบอร์ถึง, 9 October 2020, <https://voicetv.co.th/read/C8lkdBesj> (in Thai).

341 Interview with Angkhana Neelapaijit, 10 November 2023.

342 Interview with Manun Wongmasoh, 23 August 2023.



Nada Chaiyajit, who identifies as intersex transgender woman HRD, stated that she wanted to file complaints to the police and pursue justice, but she did not want to retraumatize herself by revisiting the messages and threats she received.<sup>343</sup> Similarly, when Amnesty International asked young non-binary feminist activist Nitchakarn Rakwongrit whether they would like to initiate a police report about online harassment against them, including doxing, they said: “After I got attacked online, I felt exhausted and no longer had the energy to explain everything to the police again. It would be too painful to go through it all over again, and I am not sure how effective the police would be.”<sup>344</sup>

These testimonies align with concerns raised by the CEDAW Committee with the Thai government in 2017 about the “[l]ack of gender sensitivity in the justice system, including negative attitudes of law enforcement officials towards women denouncing violations of their rights, leading to frequent failures to register and investigate complaints”.<sup>345</sup> Even though the CEDAW Committee recommended that the Thai government “strengthen the gender responsiveness and gender sensitivity of the justice system” in line with its general recommendation No. 33 (2015) on women’s access to justice, Amnesty International’s findings revealed that the government had not heeded this recommendation.

### 5.3.3 INEFFECTIVE GRIEVANCE MECHANISMS

Both judicial and non-judicial mechanisms have proved inadequate in addressing TfGBV in Thailand. The judicial system has also failed to deliver justice for individuals subjected to Pegasus spyware and targeted smear campaigns. Simultaneously, non-judicial mechanisms, designed to offer alternative avenues for seeking accountability, contained significant limitations.



#### JUDICIAL SYSTEM

Individuals targeted with Pegasus spyware have encountered administrative hurdles in the judicial system. In 2022, activists filed two lawsuits – one against the NSO Group at the Ratchadapisek Civil Court in Bangkok and the other against nine government agencies at the Central Administrative Court claiming that they were potentially involved in the use of the spyware.<sup>346</sup> On 21 November 2022, Ratchadapisek Civil Court dismissed the lawsuit citing the eight activists who jointly filed this case did not have sufficient evidence to demonstrate their infections were connected.<sup>347</sup> Meanwhile, the Central Administrative Court dismissed the case on subject-matter grounds, finding that the activists should instead file a claim through the Criminal Court which has the power to adjudicate on cases related to computer crimes.<sup>348</sup>

On 13 June 2023, Jatupat Boonpattaraksa, a HRD whose phone was infected with Pegasus spyware, filed another civil lawsuit against the NSO Group, seeking financial compensation for violating his right to privacy, in the Ratchadapisek Civil Court.<sup>349</sup> At the time of publication the case was ongoing.

The judicial system also failed to deliver justice for women HRDs subjected to targeted smear campaigns. On 4 November 2020, Angkhana Neelapaijit and Anchana Heemmina – two prominent HRDs targeted with smear campaigns online – filed a lawsuit against the Office of the Prime Minister,

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343 Interview with Nada Chaiyajit, 23 November 2023.

344 Interview with Nitchakarn Rakwongrit, 28 August 2023.

345 CEDAW, Concluding observations on the combined sixth and seventh periodic reports of Thailand (previously cited), para. 10.

346 iLaw, อัยการยื่นฟ้องไปยังผู้ให้บริการฯ สืบหาตัวปราบชุมนุมในไทย, 30 October 2023, <https://www.ilaw.or.th/articles/6266>

347 iLaw, อัยการยื่นฟ้องไปยังผู้ให้บริการฯ สืบหาตัวปราบชุมนุมในไทย (previously cited).

348 iLaw, อัยการยื่นฟ้องไปยังผู้ให้บริการฯ สืบหาตัวปราบชุมนุมในไทย (previously cited).

349 Statement of claim submitted to the Ratchadapisek Civil Court, Black Case Por 3370/2566, on record with Amnesty International.

which oversees the ISOC, and the RTA to the Bangkok Civil Court.<sup>350</sup> Both women HRDs alleged that these entities engaged in the online smear campaign to delegitimize their human rights work (see section 5.2.2).<sup>351</sup> They demanded a total of 5 million Thai baht (approximately US\$137,700) as monetary compensation under the 1996 Act Relating to Liabilities of Government Officials on Wrongful Acts, and asked that the government remove all the content attacking them from the website and issue them a public apology.<sup>352</sup>

On 16 February 2023 the Bangkok Civil Court dismissed the case, claiming that the women HRDs were unable to prove without reasonable doubt a clear connection between the website and the two state entities. The court's verdict, however, acknowledged the importance of Thailand's obligation to undertake measures to protect HRDs.<sup>353</sup> It mentioned a 2020 report by the then-United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which recognizes "cyberbullying" as an act that could constitute "psychological torture".<sup>354</sup> Even though this verdict marked an important milestone in which the Thai court recognized TfGBV could amount to torture under international law, the court still ruled in favor of the ISOC's explanation that it was only reporting about the Pulony website in its budgetary document because it was monitoring the activities on the website.<sup>355</sup>

Amnesty International observes that the difficulty in using judicial mechanisms to seek redress is linked to the procedural requirements of the Thai legal system. Under Thai law, the burden of proof typically lies with the claimant in both criminal and civil lawsuits.<sup>356</sup> Human rights lawyers representing HRDs subjected to Pegasus spyware attacks in court also expressed this concern with Amnesty International that this requirement poses a key challenge for access to justice in cases related to spyware in Thailand.<sup>357</sup> Various compounding factors as documented in this report, including the government's public denial of involvement in the spyware attacks and smear campaigns, the covert nature of the global spyware industry and the anonymity that is often linked to these forms of TfGBV, posed important challenges for the HRDs to obtain information about the perpetrators and to seek accountability through courts.

## NON-JUDICIAL MECHANISMS

In September 2022, HRDs whose devices had been infected by Pegasus spyware filed a complaint at the lower house of the Thai Parliament's Standing Committee on Political Development, Mass Communications, and Public Participation and the NHRCT, an "independent organization" set up under the Thai Constitution. At the time of this report's publication, the parliamentary committee has not made any publicly known progress in investigating the alleged use of the spyware.

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350 Protection International, "Angkhana Neelapajit and Anchana Heemmina file civil case against PM's Office and Royal Thai Army for their involvement in a disinformation and smear campaign", 16 November 2020, <https://www.protectioninternational.org/news/thailand-angkhana-neelapajit-and-anchana-heemmina-file-civil-case-against-pms-office-and-royal-thai-army-for-their-involvement-in-a-disinformation-and-smear-campaign/>

351 Court verdict, Black Case No. Por 5592/2563 and Red Case No. Por 834/2566, on record with Amnesty International, p. 1.

352 Court verdict, Black Case No. Por 5592/2563 and Red Case No. Por 834/2566 (previously cited), pp. 49-50.

353 Court verdict, Black Case No. Por 5592/2563 and Red Case No. Por 834/2566 (previously cited), p. 98.

354 Court verdict, Black Case No. Por 5592/2563 and Red Case No. Por 834/2566 (previously cited), p. 98.

355 Court verdict, Black Case No. Por 5592/2563 and Red Case No. Por 834/2566 (previously cited), pp. 90-92.

356 Interview in person with lawyers representing HRDs subjected to Pegasus spyware attacks in court (Full names withheld for security reasons), 29 August 2023, Bangkok.

357 Interview in person with lawyers representing HRDs subjected to Pegasus spyware attacks in court, 29 August 2023 (previously cited).

On 5 April 2024, the NHRCT made important progress by announcing its findings on the use of Pegasus spyware in Thailand. It stated that “it cannot be denied that a government agency in Thailand was involved in the use of Pegasus spyware [...]” due to circumstantial evidence, such as the company’s policy on exclusive sales for government entities, timing of spyware infections which usually took place before protests and the NSB police’s record of purchasing similar spyware.<sup>358</sup> The Commission said that it had gathered evidence from “every party” including relevant security agencies.<sup>359</sup> It confirmed that Pegasus spyware was used to target HRDs in Thailand, resulting in the violation of their privacy and causing fear and concerns for those who wish to make legitimate criticisms against the government.<sup>360</sup> These findings are similar to those of Amnesty International, as laid out in Section 5.2.1.

In light of these findings, the NHRCT recommended that the Cabinet carries out further investigations to seek the truth about the use of Pegasus spyware, including by instructing a government agency that has powers to summon confidential information to be in charge.<sup>361</sup> It stated the goal of such an investigation should be to ensure redress for those targeted with the spyware and guarantee a non-repetition.<sup>362</sup> It also suggested that the Cabinet orders relevant agencies to conduct a study to find a way to regulate the use of spyware by the state in line with IHRL.<sup>363</sup>

Despite this important step to address human rights concerns in the case of Pegasus, the NHRCT does not have the direct power to enforce its recommendations or compel government agencies to follow them.<sup>364</sup> Regrettably, Amnesty International observes that the Cabinet has not yet undertaken any actions to follow the commission’s recommendations at the time of the report’s publication.

Women and LGBTI HRDs told Amnesty International that they had not attempted to use the CDUGD mechanism under the GEA, which can process complaints related to gender-based discrimination. Largely, the reason was that the GEA contains exceptions that prevent filing any complaints related to gender-based discrimination carried out in the name of national security or religion under Article 17 of the GEA.<sup>365</sup> Nada Chaiyajit told Amnesty International:

***“I have used the [CDUGD’s] mechanism often to help other transgender people who experienced discrimination. Unfortunately, I cannot use it for myself because of the current limitations that prohibit the committee from touching on cases related to religion”.***<sup>366</sup>

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358 National Human Rights Commission of Thailand (NHRCT), “กสม. แถลงข่าวเด่นประจำสัปดาห์ ครั้งที่ 13/2567,” 5 April 2024, <https://www.nhrc.or.th/NHRCT-Work/Statements-Press-Releases-Open-Letters/Press-Releases/24252.aspx>.

359 NHRCT, “กสม. แถลงข่าวเด่นประจำสัปดาห์ ครั้งที่ 13/2567,” (previously cited).

360 NHRCT, “กสม. แถลงข่าวเด่นประจำสัปดาห์ ครั้งที่ 13/2567,” (previously cited).

361 NHRCT, “กสม. แถลงข่าวเด่นประจำสัปดาห์ ครั้งที่ 13/2567,” (previously cited).

362 NHRCT, “กสม. แถลงข่าวเด่นประจำสัปดาห์ ครั้งที่ 13/2567,” (previously cited).

363 NHRCT, “กสม. แถลงข่าวเด่นประจำสัปดาห์ ครั้งที่ 13/2567,” (previously cited).

364 Under the 2017 Constitution, the NHRCT is mandated to provide recommendations for addressing human rights violations. However, relevant government agencies are only required to report back to the commission if they are unable to adopt and implement such recommendations. See Thailand, Organic Law on the National Human Rights Commission of Thailand (2017), Articles 36 and 43.

365 Interview with Nada Chaiyajit, 23 November 2023.

366 Interview with Nada Chaiyajit, 23 November 2023.

The Thai government also continues to be unresponsive to concerns related to TfGBV raised by UN human rights mechanisms. In April 2023, four UN Special Rapporteurs wrote to the Thai government raising concerns about the use of Pegasus spyware and the government's failure to protect those allegedly subjected to unlawful surveillance.<sup>367</sup> They requested information from the government, including on “the measures in place to ensure the protection of the rights to privacy, to freedom of expression and to freedom of peaceful assembly of the 35 above-mentioned individuals, as well as any other person in Thailand, subjected to spyware surveillance”.<sup>368</sup> At the time of this report's publication, the government had not provided any substantial response to the UN experts.<sup>369</sup>

In August 2023, six UN experts wrote to the Thai government to raise concerns that online articles on the Pulony website amounted to “gender-based harassment” through the use of degrading verbal abuse steeped in misogyny to attack women HRDs.<sup>370</sup> The experts cited that “the most pervasive and pernicious form of gendered censorship is the use of online sexual and gender-based violence, hate speech and disinformation to silence women”.<sup>371</sup> The government responded by reiterating the ISOC's denial of responsibility.<sup>372</sup>

The government has clarified its position in the response letter to the UN experts regarding the Pulony website that online “gender-based attacks” are criminalized under the CCA. Still, many activists raised concerns with Amnesty International that they would prefer to avoid filing any criminal complaints in response to TfGBV.<sup>373</sup> According to them, the criminalization of speech can contravene IHRL related to the right to freedom of expression, so they considered this option to be in opposition to their ideology.<sup>374</sup>

In conclusion, this chapter has illuminated how women and LGBTI HRDs suffered from two main forms of TfGBV, as they navigated the digital space for their activism. These forms of TfGBV were deeply rooted in dual repression under the society's heteropatriarchal norms and the government's suppression of fundamental freedoms. The ineffective judicial and non-judicial avenues left the HRDs ensnared in a cycle of impunity. The following chapter will further explore how this phenomenon negatively affects their ability to continue pursuing their human rights activism.

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367 UN Special Rapporteurs, Letter to the Thai government on the use of Pegasus spyware, 19 April 2023, UN reference AL THA 1/2023, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=27942>

368 UN Special Rapporteurs, Letter to the Thai government on the use of Pegasus spyware (previously cited).

369 The government has submitted a response to acknowledge the receipt of the letter from the UN Special Rapporteurs on 20 April 2023 and stated that: “Information to be received from Thai agencies concerned will be transmitted to you in due course.” However, the government has not provided any additional substantive response since then. See the initial response letter at <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=37491>

370 UN experts, Letter to the Thai government on smear campaigns against women HRDs, 18 August 2023, UN reference AL THA 3/2023, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=28290>

371 UN experts, Letter to the Thai government on smear campaigns against women HRDs (previously cited).

372 Permanent mission of Thailand in Geneva, Response to the UN experts' letter on smear campaigns against women HRDs, 7 December 2023, <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=37847>

373 See the government's explanation at UN experts, Letter to the Thai government on smear campaigns against women HRDs, 18 August 2023, AL THA 3/2023, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=28290>

374 For example, interviews in person with Siraphop Attohi, 22 August 2023, Bangkok, and Panusaya Sithijirawattanakul, 23 August 2023.

## 6. THE CHILLING EFFECT: THE SILENCING OF WOMEN AND LGBTI DEFENDERS

***“Many women and LGBTI defenders are feeling isolated because there is little support when they experience gender-based violence online. I also feel exhausted and burned out myself. We’re losing good people, and it is heartbreaking. Once we’re broken, there’s no way to repair ourselves. Often, many people are left with only one option: to walk away quietly and leave their activism behind”.***<sup>375</sup>

Angkhana Neelapaijit, prominent woman HRD

The term “chilling effect” has been defined as “the negative effect any state action has on natural and/or legal persons, and which results in pre-emptively dissuading them from exercising their rights or fulfilling their professional obligations, for fear of being subject to formal state proceedings which could lead to sanctions or informal consequences such as threats, attacks or smear campaigns”.<sup>376</sup> Such state actions also include omissions or acts of refusal to take actions by public authorities.<sup>377</sup> A chilling effect produces a climate where people engage in self-censorship and render their behaviour and speech more socially conforming to avoid negative repercussions, such as legal penalties, privacy breaches and other social harms.<sup>378</sup>

In this research, Amnesty International found that a chilling effect has developed and intensified among women and LGBTI HRDs due to TfGBV. The HRDs, after experiencing violence in the digital space and finding themselves unable to seek accountability, experienced mental health impacts. They began changing their behaviour, developing distrust of the use of digital technology and limiting themselves or disengaging from activism. This chilling effect was felt not just by individuals who were directly targeted by either surveillance or online harassment, but also by other people in the groups they operated in.

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375 Interview with Angkhana Neelapaijit, 10 November 2023.

376 Laurent Pech, *The Concept of Chilling Effect: Its Untapped Potential to Better Protect Democracy, The Rule of Law, and Fundamental Rights in the EU*, March 2021, <https://www.opensocietyfoundations.org/publications/the-concept-of-chilling-effect>, p. 4.

377 Laurent Pech, *The Concept of Chilling Effect* (previously cited), p. 4.

378 Jonathon W. Penney, *Understanding Chilling Effects*, 2022, [https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=4074&context=scholarly\\_works/](https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=4074&context=scholarly_works/), p. 1455. In this research, Jonathon W. Penny describes the “productive” nature of chilling effects, where “[t]hey not only involve the silencing of speech, but also the expression of socially conforming speech and behavior”.

## 6.1 MENTAL HEALTH IMPACTS

TfGBV has led to psychological impacts with serious consequences on the mental health of women and LGBTI HRDs. After facing attacks in the digital space, many of the HRDs suffered from post-traumatic stress disorder, paranoia, depression and anxiety that led to serious bodily harms. As non-binary HRD Daranee Thongsiri said: “Online violence does not hurt us any less than whatever happens in the offline world.”<sup>379</sup>



### CASE STUDY 9

#### **PANSIREE JIRATHAKOONE: “I FEEL LIKE I WAS RAPED ONLINE BY PEGASUS”**

During the youth-led pro-democracy movement, Pansiree Jirathakoone was a university student and activist with the group Salaya for Democracy. She was targeted with Pegasus spyware on or around 17 August 2021. She was shocked because, despite attending protests, she had been working behind the scenes: “I was really surprised I was attacked by Pegasus because I never went public, I never even gave an interview... I thought, why me?” Prior to the Pegasus attack, Pansiree Jirathakoone was already making changes to how she communicated. She had learned that activists in Hong Kong were using the messaging app Telegram, so she assumed it was more secure.

“When we planned protests, we had to meet face to face. When we used the Line app, some information was leaked so we shifted [to Telegram]. We discussed with people in our Line chat that we’d go to a particular location, and when we got there the police would already be there. So, we restricted numbers of people in [the] group and shifted the application.”<sup>380</sup>

After the Pegasus attack, Pansiree Jirathakoone said that she was exposed to more threats and intimidation from police officials. She made further changes to enhance her security.

“I was much more careful. I changed my number. I don’t stay stuff on the phone anymore... I was worried about my personal photos and family photos, so after I sent my phone to iLaw for checking the spyware infection, I changed my phone immediately... But even until now, I still receive calls from the police, no matter how many times I change my number. They always find it.”

The cumulation of both digital and offline surveillance and intimidation severely affected her mental health. “I couldn’t sleep, I woke up in the middle of the night, I had nightmares... Everything piled up at the same time, it wasn’t one single issue.”

Pansiree Jirathakoone sought therapy to recover from the trauma, and is not currently involved in activism. She believes she’ll be targeted with spyware again if she resumes her activism work. “[R]ight now, I think, I’m under the radar but if I go back to organizing protests, they will definitely use [spyware] against me.”

Pansiree Jirathakoone still hopes to see some level of transparency and accountability about the use of the spyware in the future. “I want the Thai people to know that the former administration strongly violated our privacy rights. I feel like I was raped online by Pegasus, and I need someone to be held accountable.”<sup>381</sup>

379 Interview with Daranee Thongsiri, 4 December 2023.

380 Interview with Pansiree Jirathakoone, 27 August 2023.

381 Interview with Pansiree Jirathakoone, 27 August 2023.

Woman HRD Panusaya Sithijirawattanakul struggled with depression after receiving an overwhelming number of misogynistic and hateful comments on social media. “When I saw these comments that made sexist remarks or sexually harassed me, I used to cry so much. I just could not stand it. I felt defenceless and did not know what to do. Attacks against my appearance and my private life are particularly hurtful. These are not constructive criticisms – they cut deep because they were about who I am. I started struggling with depression due to these online attacks. I am getting slightly better now, but that process also required me to switch off from the online world every now and then.”<sup>382</sup>

Amnesty International notes that LGBTI Muslims also face multiple and intersecting discrimination due to their religious and gender identities, which compounded the negative psychological impacts.<sup>383</sup> Three Muslim transgender HRDs – Manun Wongmasoh, Aitarnik Chitwiset and Nada Chaiyakit – experienced severe mental health impacts due to their experiences of online gender-based harassment and intimidation from individuals holding very strong religious views which started after they began speaking out about LGBTI rights in the Muslim communities via online media platforms. Nada Chaiyakit told Amnesty International about her struggle with depression after months of threats of violence and anti-trans comments online:

***“If my heart were a mirror, all the online harassment was what cracked it gradually until it eventually broke into pieces. It ruined me. I could not sleep for more than half a year.”***<sup>384</sup>

Similarly, Aitarnik Chitwiset has battled depression and anxiety. “I used to pride myself for being a hard worker who actively poured energy into my activism. But nowadays, I can barely function because of my mental health issues.”<sup>385</sup>

For Manun Wongmasoh, TfGBV had severe psychological impacts that eventually led to a suicide attempt because she felt deeply traumatized, especially by harassment from her family members. “I would panic every time I heard the phone ring because it could be my family members calling to attack me. I even attempted to take pills or cut my wrist to end it all because I just could not take it anymore,” she told Amnesty International.<sup>386</sup>

These mental health impacts played a critical role in creating a chilling effect among women and LGBTI HRDs as it led to burnout and incapacity to continue activism. For instance, Panusaya Sithijirawattanakul believes that her experience was not unique. “I have noticed that our movement has lost too many activists who felt hurt, traumatized and burned out and could no longer carry on, so we also need to prioritize caring for each other,” she said.<sup>387</sup>

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382 Interview with Panusaya Sithijirawattanakul, 23 August 2023.

383 As noted by UN Independent Expert Victor Madrigal-Borloz: “Exclusionary views can have severe and negative consequences for the personhood, dignity, and spirituality of LGBT persons, who are often marginalized, stigmatized and excluded from religious and belief communities simply because of who they are.” See Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Freedom of Religion or Belief, and Freedom from Violence and Discrimination Based on Sexual Orientation and Gender Identity, 7 June 2023, UN Doc. A/HRC/53/37.

384 Interview with Nada Chaiyakit, 23 November 2023.

385 Interview with Aitarnik Chitwiset, 28 August 2023.

386 Interview with Manun Wongmasoh, 23 August 2023.

387 Interview with Panusaya Sithijirawattanakul, 23 August 2023.

## 6.2 DISENGAGEMENT FROM ACTIVISM

Another major consequence of TfGBV is that it drove women and LGBTI HRDs to develop distrust and paranoia around their use of digital technology. Amnesty International found that many adapted their behaviours by limiting or stopping their use of communications technology as a means to facilitate their activism.

### 6.2.1 BROKEN TRUST

Targets of Pegasus spyware told Amnesty International that the lack of transparency and accountability around the use of spyware served as a catalyst for distrust in members of their own movement. Niraphorn Onnkhaow gave an example of the suspicion shared within her protest group:

***“Some confidential information within our group got leaked, and we became paranoid and thought there was an informer within our group, but after learning that I was targeted with Pegasus spyware, perhaps it was no surprise they had all the information.”<sup>388</sup>***

Similarly, Panusaya Sithijirawattanakul told Amnesty International that there are pro-government accounts and pages on social media platforms which have a large following and which monitor pro-democracy activists closely and have detailed insights into the movement’s structure and activities. Such insights are used to attack and dox activists online.

***“This one Twitter account regularly posted the photos of our activities very closely. The photos seem to be taken from every angle. I believe they have a big team. Back in 2020, we tried hard to find who was behind this account, but it was unsuccessful. Also, there was another Facebook page that made posts exposing the identities of our group’s members. It is a horrible situation because it made us wonder whether there are people undercover infiltrating our group. You cannot truly trust anyone.”<sup>389</sup>***

Online harassment also played a central role in enabling the erosion of trust and undermining interpersonal relationships among HRDs. It produced collective paranoia that weakened the protest movement and triggered internal tensions and conflicts. For example, Intira Charoenpura (see Case Study 10) told Amnesty International that she would never return to activism in part due to the distrust fueled by disinformation campaigns against her.

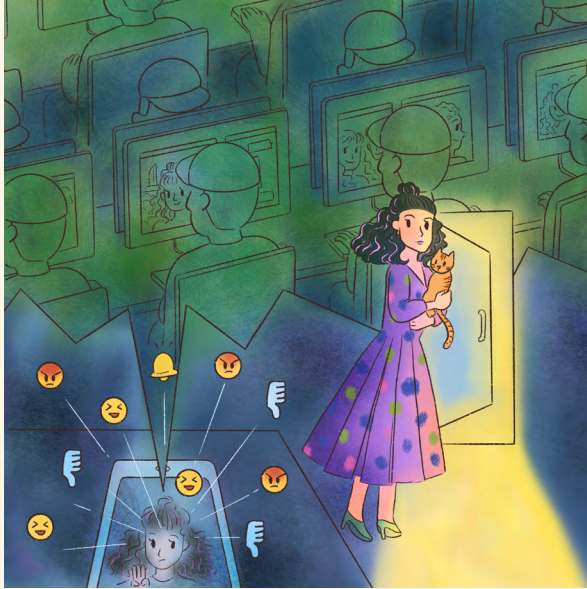
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388 Interview with Niraphorn Onnkhaow, 13 November 2023.

389 Interview with Panusaya Sithijirawattanakul, 23 August 2023. Upon investigating the social media accounts mentioned during the interview, Amnesty International found that the Twitter account mentioned by Panusaya Sithijirawattanakul remains active. Meanwhile, the Facebook page has disappeared, and the post cannot be verified at this stage. However, Panusaya Sithijirawattanakul’s testimony aligns with that of Niraphorn Onnkhaow, who also referred to the same Facebook page and the same incident of doxing.



**INTIRA CHAROENPURA: “NOTHING WOULD MAKE ME GO BACK TO ACTIVISM”**



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Successful actress and singer Intira Charoenpura is known primarily for her work in show business. In recent years, however, she has also become known for her activism alongside the pro-democracy protest movement.

Using her decades of experience of long film shoots, she realized that the lack of toilet facilities at protests posed particular problems for women and LGBTI people. She therefore ensured there were mobile toilets available at protest locations. She said: “If you look at the protests, you’ll see a lot of young women participants. It’s not that easy for them to just go to the toilet for example... It’s not so easy

for women to be in the protest physically... It started small but I did a lot.”<sup>390</sup> Afterwards, Intira Charoenpura took up a bigger role in providing the logistical and financial support to activists during the mass protests of 2020 and 2021.<sup>391</sup>

As a result, Intira Charoenpura has faced *lèse-majesté*, sedition and Emergency Decree charges for her involvement in different protests.<sup>392</sup> She was also targeted by Pegasus spyware repeatedly throughout April and June 2021. The targeting she faced was not restricted to the spyware. Like many other activists who spoke with Amnesty International for this research, Intira Charoenpura believes she was also targeted online by state-backed IOs.<sup>393</sup>

Intira Charoenpura shared with Amnesty International that pro-government trolls – which she suspects to be part of the government’s IOs – engaged in crafting and amplifying disinformation against her to drive a wedge within the activist community.

*Continued on next page*

390 Interview with Intira Charoenpura, 16 November 2023.

391 Interview with Intira Charoenpura, 16 November 2023.

392 See examples of some of the cases against Intira at Thai Lawyers for Human Rights, *เปิดฟ้องคดี ม.112-116 ชุมชน #ปลดอาวุธศักดิ์นาไทย บิรมนาราม 11 หลังอัยการฟ้องกรณ 8 ราย*, 30 November 2021, <https://tlhr2014.com/archives/38375> and Thai Lawyers for Human Rights, *ยื่นฟ้อง พ.ร.บ.ลูกเงินฯ แล้ว “รายดูออนไลน์หัวรั้ว” ชุมชนหน้า สก.ภูเก็ต ก่อนศาลให้ประกันมีเงินมาจ้างทนายอีก “ทราย” ชี้กระบวนการใช้ กม. “ไม่สม่ำเสมอ”*, 10 March 2022, <https://tlhr2014.com/archives/41171>

393 Interview with Intira Charoenpura, 16 November 2023.

“Many people perceive state-run IOs as overtly obvious and unsophisticated. However, I believe they act more smartly than we think. Back in 2021, they started lies and rumours about me, and some activists picked it up and believed it. I then felt betrayed and started fading out of the movement because the trust is all gone. Everything started from the IO rumours. But from people that you know well, it’s much more painful. When you don’t get emotional support from people in the movement it’s even worse.”<sup>394</sup>

Ultimately, Intira Charoenpura felt unable to continue her activism and withdrew fully from the movement. The mental health impacts were so severe that she was also unable to carry out her work as an actress for a year. She said: “It was a deep, deep sadness. Finding out I was attacked [by Pegasus] added to the pain. It took almost a year to heal... Nothing would make me go back to activism.”<sup>395</sup>

Amnesty International’s findings underscore how the breakdown of trust induced by TfGBV inflicted severe negative effects on the HRDs’ ability to mobilize for their causes. Distrust became a corrosive force, shattering the sense of community among the HRDs and fracturing their solidarity. It also forced them to refrain from engaging in activism fully in the face of uncertainty and paranoia.

## 6.2.2 SELF-CENSORSHIP

Amnesty International documented a pattern in which women and LGBTI HRDs resorted to self-censorship in the digital space as a mechanism for self-protection after suffering from TfGBV. Many, including Angkhana Neelapaijit who experienced targeted smear campaigns on social media platforms (see Case Study 11), decided to withhold their opinions on certain issues or avoid participating in public discussions to avoid further violence.

### CASE STUDY 11

#### **ANGKHANA NEELAPAIJIT: “SOMEONE IS WATCHING MY EVERY MOVE”**

Angkhana Neelapaijit dedicated her life to activism when her husband Somchai Neelapaijit, a renowned human rights lawyer, became a victim of enforced disappearance on 12 March 2004. She founded the Justice for Peace Foundation and served as a National Human Rights Commissioner in Thailand from 2016 to 2019. Now, Angkhana Neelapaijit is an expert member of the UN Working Group on Enforced or Involuntary Disappearances.

Since she began her activism after her husband’s disappearance, Angkhana Neelapaijit has frequently been subjected to social media attacks, including targeted smear campaigns, that weaponized disinformation and used hateful and derogatory language against her.<sup>396</sup>

*Continued on next page*

394 Interview with Intira Charoenpura, 16 November 2023.

395 Interview with Intira Charoenpura, 16 November 2023.

396 Interview with Angkhana Neelapaijit, 10 November 2023.

“I use social media platforms regularly to raise concerns about different human rights issues ranging from refugees’ rights to the rights of Malay Muslims in the SBPs. There are lots of anonymous accounts that would use the story of my husband’s disappearance and gendered slurs to attack me. For example, when I speak of the rights of Rohingya people or Malay Muslims, I got comments saying that I wanted to have sex with them because my husband is not around.”<sup>397</sup>

Angkhana Neelapaijit was one of the two women HRDs who took part in the lawsuit against Thai authorities for allegedly running IOs to delegitimize their human rights activism. During the court procedure, she worked with her lawyers to identify how the Pulony website published many articles to falsely depict her as part of a Malay Muslim armed insurgent group or affiliate her with other activists perceived as threats to national security.<sup>398</sup> One of the articles even attacked her for being “delusional” and alleged that she crafted a false story that she was being attacked through smear campaigns.<sup>399</sup>

“During the trial, the ISOC provided evidence to show that they regularly monitor my activities, take my photos, and they have a whole file dedicated to my information. This incident made me realize the security agencies view me as their enemy.”<sup>400</sup>

In addition to these targeted smear campaigns, Angkhana Neelapaijit and her family members have received death threats.<sup>401</sup> In April 2022, her house was attacked by an individual who threw nine-inch-long scissors at her front door and her car.<sup>402</sup> In addition, she faced criminal defamation charges for social media posts showing solidarity with HRDs who were subjected to judicial harassment after they called out alleged labour rights abuses at a chicken farm.<sup>403</sup>

Due to these reprisals in reaction to her activism, Angkhana Neelapaijit began to feel the impacts of the chilling effect. “I must admit that I’m sometimes censoring myself. I always feel like someone is watching my every move, scrutinizing everything I do, and looking to find faults that can be used to attack me,” she said.<sup>404</sup>

Some activists decided to keep a lower profile or change the way they communicate publicly. Panupong Maneewong said: “After being attacked online, I’ve become more cautious about what I post online and how I communicate. I still engage in criticizing the government online, but I try to avoid using sensitive words that could trigger more backlash.”<sup>405</sup> Patcharadanai Rawangsub also said that he has been careful to keep a low profile online due to fears that he might be subjected to targeted surveillance again.<sup>406</sup>

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397 Interview with Angkhana Neelapaijit, 10 November 2023.

398 Court verdict, Black Case No. Por 5592/2563 and Red Case No. Por 834/2566 (previously cited), pp. 14-22.

399 Court verdict, Black Case No. Por 5592/2563 and Red Case No. Por 834/2566 (previously cited), pp. 14-16.

400 Interview with Angkhana Neelapaijit, 10 November 2023.

401 Amnesty International, “Thailand: Angkhana Neelapaijit must be given immediate protection” (Index: ASA 39/016/2006), 1 November 2006, <https://www.amnesty.org/en/wp-content/uploads/2021/08/asa390162006en.pdf>

402 Frontline Defenders, “Attacks against woman human rights defender Angkhana Neelapaijit”, 20 April 2022, <https://www.frontlinedefenders.org/en/case/attacks-against-woman-human-rights-defender-angkhana-neelapaijit>

403 Fortify Rights, “Thailand: Stop judicial harassment of three Thai women human rights defenders”, 14 March 2023, <https://www.fortifyrights.org/tha-inv-2023-03-14/>

404 Interview with Angkhana Neelapaijit, 10 November 2023.

405 Interview with Panupong Maneewong, 13 December 2023.

406 Interview with Patcharadanai Rawangsub, 23 November 2023.

*“While surveillance technologies can be used to detect threats of violence and thus to protect the public, they can also infringe on the right to privacy and other rights of participants and bystanders and have a chilling effect.”*

HRDs also reduced the use of social media platforms for purposes related to their activism because of concerns about the safety of their family members. Manun Wongmasoh said that she needed to refrain from using online platforms to express herself because her mother could be subjected to pressure and verbal abuses from her religious relatives and community members.<sup>407</sup> “I’ve stopped giving media interviews that can end up being shared publicly online or expressing my opinions [about LGBTI rights in Muslim communities] because I am worried about the impacts on my mother. I’m stepping back to re-evaluate my way of communication.”<sup>408</sup>

For Benja Apan, the Pegasus attack and associated fears made her adapt by prioritizing in-person meetings instead of digital communications to discuss sensitive or important matters. “I faced state surveillance because of my role in protest activities so I really must be careful. [...] Even with friends on Facebook, I have to be careful because nothing can be 100% private. [...] At a certain point we had to meet in person and turn off our phones.”<sup>409</sup>

Amnesty International further documented vicarious fear among some activists who were not targeted directly with Pegasus spyware. As the UN Human Rights Committee noted in General Comment No. 37 on the right to peaceful assembly: “While surveillance technologies can be used to detect threats of violence and thus to protect the public, they can also infringe on the right to privacy and other rights of participants and bystanders and have a chilling effect.”<sup>410</sup> Non-binary HRD Nitchakarn Rakwongrit, for example, said they had contacted many other fellow activists whose devices were infected with the spyware. “It was a scary time for me and other activists when we found out our devices could have been infected. Even if mine may not be directly infected, authorities could still get information from my conversations with those whose devices were compromised.”<sup>411</sup>

Similarly, in the Malay Muslim-majority SBPs, Amnesty International documented a noticeable pattern in which many women and LGBTI HRDs who work on LGBTI rights decided to refrain from using social media platforms altogether to avoid any potential TfGBV.

According to a group of Pattani-based women activists who asked to talk with Amnesty International anonymously due to their fear of reprisals, the case of online threats of violence against Buku Classroom (see section 5.2) had a profound effect, making them realize that it would be unsafe to expose themselves and share information about their activities online. Their activities focused on providing spaces for learning about human rights and hosting football games for women.

“We could barely talk about diversity or gender-related issues because we’re in a sensitive area. The best we can do is to provide a safe space for women and other gender non-conforming people. We do use online platforms and tools for sharing information about our activities, but we try to be very careful about our messages,” one of the group’s representatives told Amnesty International.<sup>412</sup>

407 Interview with Manun Wongmasoh, 23 August 2023.

408 Interview with Manun Wongmasoh, 23 August 2023.

409 Interview with Benja Apan, 26 August 2023.

410 Human Rights Committee, General Comment No. 37 (previously cited), para. 11.

411 Interview with Nitchakarn Rakwongrit, 28 August 2023.

412 Group interview in person with eight Malay Muslim women activists, 24 August 2023, Pattani.

Similar self-imposed limitations on activism were also raised during Amnesty International's group interview with gender non-conforming Malay Muslim student activists at a university in Pattani. Ismael, one of the student activists, told Amnesty International about the surveillance conducted by their family or community members which poses challenges in expressing their opinions about LGBTI rights online. "In our daily life, it's almost impossible to be ourselves because we're always being watched – either by our families and other members of their communities, including religious leaders."<sup>413</sup>

Due to such risks, the student activists consider online visibility to be too risky. "Of course, we do use digital tools, such as Line, to communicate with each other. However, within our group, we would not post anything about our activities on social media. It's too dangerous," said Ismael.<sup>414</sup> He added that he had seen many cases of Muslim people who openly shared on social media about their LGBTI identities, and such exposure led to harassment by members of their own communities.<sup>415</sup> Amir added:

***"We live in a small community, and LGBTI people are often under much more scrutiny. If we post anything sensitive or in contradiction with their beliefs, they could easily find where you live."<sup>416</sup>***

The student activists also shared with Amnesty International their lack of hope for change. "I think there is very little chance that the situation for LGBTI people here would get better. The likelihood is almost close to zero per cent. For us, the only options may be to leave our homes and be ourselves elsewhere," said Yusuf.<sup>417</sup>

In summary, the prevalence of TfGBV – both in the form of targeted digital surveillance and online harassment – left women and LGBTI HRDs vulnerable and unprotected. Amid the atmosphere of impunity, the HRDs were doubly exposed to gender-based violence in both the physical and digital space with no safe place to which they



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could turn. The chilling effect was felt not just by the individuals targeted, but more broadly by the groups they operated in. As a consequence of the chilling effect, HRDs were driven into silence; no longer able to fully speak out to demand equality, and thus perpetuating a cycle of marginalization and disenfranchisement.

413 Group interview in person with four Malay Muslim student activists (Pseudonyms used for security reasons), 24 August 2023, Pattani. According to the activists, while they were assigned male at birth, they identify as "gender-diverse" people because they and their community are not familiar with the categories of "LGBTI." The activists reported that they were sometimes labelled by people in their community as "tood" – a term that can be regarded as derogatory for feminine gay and queer men and transgender women.

414 Group interview with four Malay Muslim student activists (Pseudonyms used for security reasons), 24 August 2023.

415 Group interview with four Malay Muslim student activists (Pseudonyms used for security reasons), 24 August 2023.

416 Group interview with four Malay Muslim student activists (Pseudonyms used for security reasons), 24 August 2023.

417 Group interview with four Malay Muslim student activists (Pseudonyms used for security reasons), 24 August 2023.

# 7. HUMAN RIGHTS IMPACTS OF TECHNOLOGY-FACILITATED GENDER-BASED VIOLENCE

Amnesty International's findings on TfGBV and its harms, including the chilling effect, unveils a series of human rights violations against women and LGBTI HRDs in Thailand, namely the rights to freedom from gender-based violence, freedom of expression, peaceful assembly and association, privacy and effective remedy. The Thai state is directly responsible for these violations, as it is bound under IHRL to respect, protect and fulfil these rights. In the specific case of the use of Pegasus spyware against Thai HRDs, NSO Group also holds responsibilities to prevent these violations.

## 7.1 THE RIGHT TO LIVE FREE FROM GENDER-BASED VIOLENCE

All the instances of targeted digital surveillance and online harassment against women and LGBTI HRDs in Thailand documented by Amnesty International amounted to the violation of the right to live free from gender-based violence. This research's findings uncovered how these two key forms of TfGBV resulted in discriminatory and harmful impacts that disproportionately affected women and LGBTI people. Targeted surveillance generated fears linked to gender-based violence among the HRDs. Online harassment exposed the targets to content that harms them through gendered attacks based on repressive heteropatriarchal norms.

Despite the Thai government's obligation under IHRL to respect, protect and fulfil the right to live free from gender-based violence, Amnesty International's research pointed to its clear failure to do so. The discriminatory effects of TfGBV also show that the Thai government is unable to uphold the principle of non-discrimination for these HRDs, despite its obligation under IHRL and the Thai Constitution.

As a result of the government's public denial of involvement in the use of Pegasus spyware and targeted smear campaigns, it remains obscure as to whether the Thai government met its obligation to respect – or refrain from curtailing – this right. Despite HRDs' efforts to seek truth about these violations through grievance mechanisms, Amnesty International found that there was no effective investigation capable of revealing adequate information about the perpetrators' identities in these cases at the time of publication. The failure of authorities to investigate has heightened concerns among HRDs of possible state involvement.

Moreover, under IHRL, the Thai government is legally obliged to protect the HRDs from violations of this right by third parties. However, none of the interviewees for this research was able to receive protection from the state largely due to structural deficiencies listed in Chapter 5 that led to the entrenchment of impunity, including the lack of gender sensitivity in the police procedures and the ineffectiveness of grievance mechanisms. Such deficiencies left the HRDs with little recourse to seek protection from the state.

During the third cycle of Thailand’s Universal Periodic Review in November 2021, the government has “supported” dozens of recommendations on combatting gender-based violence and discrimination, including “[taking] the necessary steps to combat discrimination and violence against women and children, and on the basis of sexual orientation and gender identity”,<sup>418</sup> [redoubling] its efforts to prevent and address all forms of violence against women,<sup>419</sup> “[f]urther strengthen[ing] its efforts regarding the provision of essential services and support for victims of sexual and gender-based violence”.<sup>420</sup> The Ministry of Foreign Affairs wrote to Amnesty International to affirm that “Thailand has continued to demonstrate its commitment to advance the rights of women and girls, LGBTI, as well as human rights defenders” and adds that “[t]hese groups have continuously been identified as our priority groups in the National Human Rights Plan” (See Annex 2). This research’s findings, nonetheless, suggested that the government has not successfully implemented these commitments over the past years.

The right to be free from gender-based violence serves as an essential enabling factor for women and LGBTI people to exercise other rights. Therefore, the violation of this right also has an effect of impairing the full enjoyment of other human rights for women and LGBTI HRDs.

## 7.2 THE RIGHTS TO FREEDOM OF EXPRESSION, PEACEFUL ASSEMBLY AND ASSOCIATION

***“I keep asking myself what percentage we can be ourselves. Maybe being 100% ourselves is too dangerous. I keep thinking about this. I feel like I can’t really be myself”***<sup>421</sup>

Benja Apan, woman HRD and protest leader

Under IHRL, Thailand must guarantee the rights to freedom of expression, peaceful assembly and association for all persons. These rights are particularly vital for the women and LGBTI people who have taken up the role of HRD and who regularly exercise these freedoms to defend rights for themselves and others, including those interviewed in this research.

The Ministry of Justice informed Amnesty International that “[h]uman rights defenders are one of the main priority groups protected under the fifth National Human Rights Plan (2023 – 2027) and considered one of the important issues under the second National Action Plan on Business and Human Rights (2023 – 2027)” (See Annex 2). Nevertheless, Amnesty International’s research indicated that the discriminatory effects of TfGBV have led to the chilling effect that is deterring women and LGBTI HRDs from fully exercising their rights to freedom of expression and peaceful assembly. Targeted digital surveillance has placed unwarranted limitations by unduly interfering with the HRDs’ ability to speak out or take part in protests – both online and offline. Similarly, online harassment chilled their expression by fostering an unsafe environment where the HRDs were exposed to discrimination, hostility and violence. Even those who were not directly targeted also suffered from the chilling effect and resorted to self-censorship due to the widespread fear engendered by these forms of TfGBV. By not taking meaningful steps to protect HRDs from this undue intervention, the Thai government failed to guarantee their rights to freedom of expression and peaceful assembly.

418 UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: Thailand, 21 December 2021, UN Doc. A/HRC/49/17/Add.1, recommendation 51.45 (Fiji)

419 UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: Thailand, 21 December 2021, UN Doc. A/HRC/49/17/Add.1, recommendation 51.142 (Zambia).

420 UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: Thailand, 21 December 2021, UN Doc. A/HRC/49/17/Add.1, recommendation 51.145 (Hungary).

421 Interview in person with Benja Apan, 26 August 2023.

It is critical to note that these limitations on the rights to freedom of expression and peaceful assembly are not justifiable under IHRL. This is especially so where such interferences are carried out to silence voices of those defending human rights. These limitations only serve to further restrain the ability of women and LGBTI people to take up activism.

Amnesty International's findings show how the government failed to comply with its positive obligation under IHRL to create a safe and enabling environment for women and LGBTI HRDs to exercise these rights. In particular, the government has allowed TfGBV to thrive without accountability, thus leading to the unchecked development of a chilling effect among women and LGBTI HRDs. As discussed in Chapter 5, trust is a central component of the rights to freedom of expression and peaceful assembly because it enables people to organize collective action, such as protests, without fear of reprisals.<sup>422</sup> However, TfGBV created a pervasive sense of distrust that led many HRDs to limit or stop their activism to avoid such reprisals.

In several cases, this failure also adversely impacted the right to freedom of association, which is vital for HRDs in carrying out their work as outlined under IHRL. Chapter 5 of this report illustrated how online harassment was also directed at organizational targets. For example, in the case of Feminista, the group was unable to fully operate due to the overwhelming toxic comments from those engaging in cyber-mobbing. Amnesty International Thailand faced targeted smear campaigns that undermined not only the organization's reputation but also exposed its staff members to TfGBV due to their affiliation with the organization. Buku Classroom had to close down due to doxing and threats of violence against its members. As a result of TfGBV, women and LGBTI HRDs were unable to enjoy their full right to collectively defend human rights.

Amnesty International also found that the Thai government has not taken sufficient measures to foster conditions that will allow for women and LGBTI HRDs to enjoy these rights. The case studies in Chapters 5 and 6 demonstrate how the HRDs continue to suffer from gender-specific harms, including discrimination, hostility and violence. In particular, the government has failed to undertake concrete actions to protect women and LGBTI people from harmful content, as illustrated in cases where the HRDs were exposed to hateful and abusive speech, targeted smear campaigns and threats of gendered violence. The toxic digital environment exposed them to TfGBV, which in turn served as a barrier to their full engagement in the civic space.

## 7.3 INTRUSION OF PRIVACY

### 7.3.1 UNLAWFUL INTERFERENCE WITH PRIVACY

Under international law, the right to privacy may be restricted if it meets the principles of necessity, legality and proportionality and serves a legitimate goal. As part of their obligation to ensure that surveillance is conducted lawfully, states must employ a number of specific safeguards which include, but are not limited to, judicial supervision.



In this research, all women and LGBTI people targeted by digital surveillance were engaging in legitimate and peaceful human rights activism at the time of such attacks. The particular role of HRDs to engage in such activism is specifically recognized under IHRL and standards, and targeting people on the basis of these activities can never be a legitimate purpose under international law. Amnesty International therefore assesses that the documented instances of surveillance amounted to an arbitrary interference of the HRDs' human rights which is impermissible under international law.

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<sup>422</sup> Daragh Murray and others, "The chilling effects of surveillance and human rights: Insights from qualitative research in Uganda and Zimbabwe", *Journal of Human Rights Practice*, 2023, huad020, <https://doi.org/10.1093/jhuman/huad020>, p. 10.



Many targeted HRDs were subject to criminal charges under offences considered by Thai authorities to be related to national security, such as the *lèse-majesté* law under Article 112 and sedition under Article 116 of the Criminal Code, and Section 14 of the CCA. However, UN experts have found that these legal provisions are often used to silence dissidents for exercising their rights to freedom of expression and assembly. Accordingly, these domestic crimes cannot serve as the basis for legitimizing the targeted digital surveillance due to their inconsistency with other human rights obligations, particularly the mandate to refrain from using national security as a blanket term to silence and deter HRDs.

Some forms of targeted digital surveillance can be considered proportionate and permitted under IHRL, if they are carried out in the presence of adequate human rights safeguards to prevent abuses.<sup>423</sup> However, in the case of Thailand, there is no legislative and regulatory framework to prevent arbitrary interference with the right to privacy. Section 4.2 above showed that the Thai domestic laws on data privacy, including the CCA, PDPA, CSA and NIA, do not contain adequate legal safeguards. Rather, these laws grant expansive discretion for the Thai authorities to monitor online activities and access private data. The absence of a human rights-compliant framework further reflects that the targeted digital surveillance documented in this research did not meet the principle of proportionality.

In the case of the use of highly invasive spyware such as Pegasus, human rights safeguards would still be inadequate to prevent human rights violations. In February 2022, the European Data Protection Supervisor conducted a study on “modern spyware”, which concluded that the level of interference with the right to privacy of highly intrusive spyware technology “is so severe that the individual is in fact deprived of it. In other words, the essence of the right is affected. Therefore, its use cannot be considered proportionate – irrespective of whether the measure can be deemed necessary.”<sup>424</sup>

As outlined in Section 5.2.1, technical and circumstantial evidence led Amnesty International to reach that the Thai authorities, or agents acting on their behalf, are most likely to be behind the documented attacks. This conclusion aligns with the official position of the NHRCT. Amnesty International wrote to the Thai authorities seeking comment on this issue. In response, Thailand’s Ministry of Foreign Affairs stated in its letter to Amnesty International dated 19 April 2024, “[w]ith regard to the use of Pegasus spyware, there has not been any proven evidence as to which government agency has utilized the spyware.”

At a minimum, the authorities have failed in their obligation to investigate these cases of unlawful targeted surveillance against women and LGBTI HRDs. Such omission alone constitutes the government’s failure to protect individuals from violations of the right to privacy.

Furthermore, Amnesty International could not identify whether NSO Group had conducted human rights due diligence or taken appropriate steps to prevent and mitigate harms through the use of its products, including Pegasus spyware. The company’s Human Rights Policy provides that:

“In our sales process, we thoroughly evaluate the potential for adverse human rights impacts arising from the misuse of our products by considering, among other factors, the specific customer, the proposed customer use case and the past human rights performance and governance standards of the country involved.”<sup>425</sup> Moreover, if the Pegasus spyware used against Thai HRDs was sold from Israel, then Israeli export laws would have required an end user certificate that identifies, among other things, the ultimate end user and purpose.<sup>426</sup>

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423 Amnesty International, *The Predator Files: Caught in the Net* (Index: ACT 10/7245/2023), 9 October 2023, <https://www.amnesty.org/en/documents/act10/7245/2023/en/> p. 39.

424 European Data Protection Supervisor, *Preliminary Remarks on Modern Spyware*, 15 February 2022, [https://edps.europa.eu/system/files/2022-02/22-02-15\\_edps\\_preliminary\\_remarks\\_on\\_modern\\_spyware\\_en\\_0.pdf](https://edps.europa.eu/system/files/2022-02/22-02-15_edps_preliminary_remarks_on_modern_spyware_en_0.pdf), p. 8.

425 NSO Group, “Human rights policy, September 2019”, [https://www.nso.group.com/wp-content/uploads/2019/09/NSO-Human-Rights-Policy\\_September19.pdf](https://www.nso.group.com/wp-content/uploads/2019/09/NSO-Human-Rights-Policy_September19.pdf) para. III.

426 Defense Export Control Agency (Israel), “Instruction for Form 8A: End Use/User Certificate”, 15 May 2014, <https://exportctrl.mod.gov.il/Documents/990-P/Instruction%20for%20Form%208A%20End%20Use%20User%20Certificate.pdf>; Export rules were updated in 2021, see <https://www.gov.il/en/departments/news/mod-tightens-control-of-cyber-exports-6-december-2021>, in part in response to the revelations of the Pegasus Project, see <https://www.jpost.com/israel-news/article-695084>

# THIS RESEARCH DOCUMENTED HOW THE VIOLATION OF THE RIGHT TO PRIVACY BY UNLAWFUL TARGETED DIGITAL SURVEILLANCE HAD



## **DISPROPORTIONATE IMPACTS ON WOMEN AND LGBTI HRDs**

However, if the company had conducted such due diligence, and had sold the Pegasus spyware to Thai authorities, then NSO Group should have been aware of the history of digital repression against human rights activists and peaceful protesters in Thailand. With such knowledge, it would have had to be aware when it sold Pegasus spyware, including the sale that led to the violations described above (even if it did so through a distributor), that this product could or would cause direct human rights harm.

Pegasus spyware does not include technical safeguards to ensure that the highly invasive spyware does not cause human rights harm as it is specifically designed to evade investigation and allows for its users to take the maximum amount of target data possible. Given these capabilities of the spyware, any use of this spyware therefore cannot be in line with the UN Guiding Principles which outlines that companies must respect all human rights. Even if NSO Group had truly conducted appropriate human rights due diligence, its decision to proceed with the sale of such a product that could not be made rights-respecting leads Amnesty International to conclude that NSO Group failed to fulfil its responsibilities under IHRL.

On this basis, NSO Group should cease the use, production, sale, transfer and support of Pegasus spyware, and any other similar highly invasive spyware that does not include technical safeguards allowing for its lawful use under a human rights-respecting regulatory framework. It should also provide adequate compensation or other forms of effective redress to survivors of unlawful surveillance.

### **7.3.2 DISCRIMINATORY IMPACTS ON WOMEN AND LGBTI PEOPLE**

While international law requires that surveillance must be non-discriminatory, this research documented how the violation of the right to privacy by unlawful targeted digital surveillance had disproportionate impacts on women and LGBTI HRDs. Notably, Amnesty International found that the HRDs experienced unique gendered fears after finding out that their digital privacy had been infringed due to their SOGIESC.

This research's findings indicated that the HRDs are concerned that the leak of their private data could further be used to pursue online harassment, especially doxing, against them and/or weaponized to facilitate state violence, including the criminalization of their activism. As testimonies in this research show (see section 5.2.1), many women and LGBTI HRDs were of the view that they paid a higher price when experiencing the breach of their privacy due to their SOGIESC.

Amnesty International found that authorities have not taken sufficient measures to prevent, investigate and punish those involved in the violation of the right to privacy, which led to the discriminatory impact against women and LGBTI HRDs. This suggests that the Thai government needs to adopt an intersectional and gender-sensitive approach to address threats to the right to privacy, as well as refrain from engaging in any activities, such as surveillance operations, that compromise the right to privacy of individuals, as outlined above.

## 7.4 THE RIGHT TO AN EFFECTIVE REMEDY

To address the violations of various human rights outlined above, the Thai government has the obligation to guarantee an effective remedy for the HRDs targeted with TfGBV under IHRL. The three main components for achieving the right to an effective remedy under IHRL include: access to relevant information concerning violations and reparation mechanisms; equal and effective access to justice; and adequate, effective and prompt reparation for harm suffered. However, Amnesty International found that the Thai government has not met any of these components and has therefore failed to guarantee the right to an effective remedy.

### 7.4.1 ACCESS TO INFORMATION

Regarding the first component of the right to an effective remedy on access to information, Amnesty International observed that the absence of information related to the perpetrators and their actions was one of the major obstacles to accessing the right to an effective remedy for women and LGBTI HRDs subjected to TfGBV.<sup>427</sup> Without such information, the defenders lacked a fundamental basis for identifying evidence for claiming justice and other forms of reparations.<sup>428</sup>

First, it is critical to note that most incidents of TfGBV documented in this research took place under the veil of anonymity and secrecy surrounding perpetrators' identities. The targeted digital surveillance – both the use of Pegasus spyware and the attacks on Facebook accounts – occurred unannounced without leaving clear indicators of the attackers' identities. This factor contributed to the lack of access to information among women and LGBTI HRDs.

A representative of TLHR whose Facebook account was targeted told Amnesty International that the civil society sector lacks the capacity to trace the identity of those who carry out targeted digital surveillance. The government, meanwhile, has failed to carry out an investigation to provide more clarity on the attack on their online privacy. The representative told Amnesty International: “Of course, I would like to see accountability. However, we will need an independent digital forensic investigation to find out more about what happened, but the government has not taken any action on it.”<sup>429</sup>

Patcharadanai Rawangsub expressed a similar opinion when he said he did not trust the government enough to undertake this investigation, given that the alert he received on Facebook said the attacker might be “sophisticated or government-backed”. He was disappointed that the company Meta did not provide any further information to explain how they detected the attack and which actor was behind the attack.<sup>430</sup> “It was useful to get the alert because it lets me know that I am being watched. I’m still in the dark about what data the attacker might have obtained. I’ll continue to feel anxious with such ambiguity,” he said.<sup>431</sup>

Meta confirmed to Amnesty International that it has not provided additional information to the targeted individuals about the identity of the attacker(s) and the details related to how the attacker(s) compromised their Facebook accounts.<sup>432</sup> The company also has not established an effective mechanism by which recipients of these alerts can request and receive further information on the matter.<sup>433</sup> Meta told Amnesty International that in many cases where recipients received a “sophisticated attacker” alert rather than a “government-backed attacker” alert, the company itself was not always able to determine confidently the identity of the attacker(s).<sup>434</sup>

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427 Amnesty International, *Injustice Incorporated* (previously cited), pp. 157-158.

428 Amnesty International, *Injustice Incorporated* (previously cited), pp. 157-158.

429 Interview in person with a representative from TLHR (full name withheld for security reasons), 28 August 2023, Bangkok.

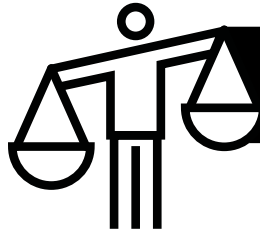
430 Interview by video call with Patcharadanai Rawangsub, gay HRD, 23 November 2023.

431 Interview with Patcharadanai Rawangsub, 23 November 2023.

432 Notes from research meeting held on 26 February 2024, on record with Amnesty International.

433 Notes from research meeting held on 26 February 2024, on record with Amnesty International.

434 Notes from research meeting held on 26 February 2024, on record with Amnesty International.



## **WOMEN AND LGBTI HRDs WERE UNABLE TO FILE COMPLAINTS UNDER THE CCA OR THE GEAD DUE TO EXISTING PROVISIONS THAT ARE INCONSISTENT WITH INTERNATIONAL HUMAN RIGHTS LAW (IHRL)**

Online harassment also often features the use of anonymous or fake accounts, which leaves the targeted individuals struggling to identify a perpetrator. “I always checked the profiles of people who attacked me on social media with abusive comments. The majority of them used fake profiles newly created. It’s very difficult for me to find out their real identities,” Panusaya Sithijirawattanakul told Amnesty International.<sup>435</sup> Many other women and LGBTI HRDs shared this common observation.<sup>436</sup>

Second, as elaborated in Chapter 5, the Thai government has a pattern of claiming that it cannot identify which state or non-state actors may have engaged in TfGBV. However, such a claim of ignorance cannot justify Thailand’s inaction with regards to the human rights violations and abuses that took place against women and LGBTI HRDs. Amnesty International found that the Thai government also did not pursue any further actions to provide more clarification on the violations and abuses that took place. The change of government after the May 2023 election so far has not resulted in changes in this lack of willingness to address this issue.

The Thai authorities have an obligation to conduct a prompt, independent, transparent and effective investigation into instances of TfGBV including targeted surveillance, doxing and coordinated smear campaigns, which can be considered discriminatory under international law, as the first step to provide access to information and guarantee the right to an effective remedy.<sup>437</sup>

### **7.4.2 ACCESS TO JUSTICE**

Amnesty International also found that the second component of the right to an effective remedy, which is access to justice, has not been met in cases of TfGBV in Thailand. In contrary to the principle of the right to an effective remedy under IHRL, the Thai government did not facilitate effective, prompt, thorough and impartial investigations.

As demonstrated above (see section 5.3), the government so far had only responded to allegations of its involvement in the Pegasus spyware attack and targeted smear campaigns by denying its own role. There was no further official commitment to search for the perpetrators in any case, including the case of Pegasus despite the NHRCT’s recommendation to the Cabinet on this issue. Such investigations could have helped to identify the perpetrators and hold them accountable for committing TfGBV, which caused serious harms to the HRDs.

Despite concerted efforts by the HRDs impacted by the Pegasus spyware and targeted smear campaigns to use existing judicial and non-judicial mechanisms, this research uncovered that the HRDs were still unable to leverage these mechanisms to receive justice. The standard requirement on the claimant’s burden of proof under Thai law, coupled with the government’s lack of transparency in providing information about TfGBV, further obscured the HRDs’ ability to rely on the court system.

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435 Interview in person with Panusaya Sithijirawattanakul, woman HRD and protest leader, 23 August 2023, Bangkok.

436 For example: Interview in person with Nitinan Ngamchaipisit, non-binary HRD, 28 August 2023, Bangkok; Interview by voice call with Panupong Maneewong, gender non-conforming HRD and protest leader, 13 December 2023; Interview in person with Angkhana Neelapaijit, woman HRD, 10 November 2023, Bangkok.

437 See Chapter 4.

In response to Amnesty International's allegations about the HRDs' inability to access justice, the Thai Ministry of Foreign Affairs responded that "all human rights defenders, including women and LGBTI, have access to the justice system, including the right to file lawsuits under relevant laws and the right to appeal the case to the Court of Appeal" (See Annex 2). However, Amnesty International identified that Thailand's domestic laws are insufficient to address TfGBV. Despite the constitutional guarantee of non-discrimination, problematic laws including CCA and GEA demonstrate fundamental legislative deficiencies in ensuring access to justice for survivors of TfGBV. Women and LGBTI HRDs were unable to file complaints under either law due to existing provisions that are inconsistent with IHRL.<sup>438</sup> This systemic gap accentuates the urgent need for comprehensive legal reforms in line with IHRL to ensure that women and LGBTI people have unimpeded access to justice in the face of pervasive violations.<sup>439</sup>

### 7.4.3 REPARATIONS

Without an effective channel for justice, women and LGBTI HRDs have not been able to receive any form of adequate, prompt, thorough and effective reparations. Through its investigation of the case studies in the previous chapter, Amnesty International found that none of the HRDs had received compensation for the harms they suffered, rehabilitation, nor other legal and social services. No guarantee of non-repetition was provided by the Thai government, thus leaving the HRDs in a state of uncertainty over their ongoing vulnerability to TfGBV.

In the lawsuit initiated by two women HRDs regarding the targeted smear campaigns, the civil court stated that there is no law guaranteeing compensation for individuals who suffer from human rights violations if such violations cannot be attributed to a state entity.<sup>440</sup> The absence of such a law is another important factor in women and LGBTI HRDs being left without reparations for TfGBV and being unable to identify the perpetrators through the existing grievance mechanisms.

As the Thai government failed to guarantee the three main elements of the right, Amnesty International concludes that the right to an effective remedy of women and LGBTI HRDs has been violated in the instances documented in this research.

In summary, Amnesty International's research assessed that the Thai government has not met its obligation to respect, protect and fulfil various human rights of women and LGBTI HRDs targeted with TfGBV. Similarly, in the case of Pegasus spyware, the NSO Group did not comply with its responsibilities under international law to prevent human rights violations as a result of unlawful targeted surveillance by its product. These human rights failures reflect a strong irony, considering the government's hope to be recognized as a champion of gender equality at the international level, while women and LGBTI HRDs continue to suffer the consequences of TfGBV.



**WITHOUT AN EFFECTIVE CHANNEL FOR JUSTICE, WOMEN AND LGBTI HRDs HAVE NOT BEEN ABLE TO RECEIVE ANY FORM OF ADEQUATE, PROMPT, THOROUGH AND EFFECTIVE REPARATIONS.**

<sup>438</sup> See Chapter 4 for the human rights analysis of both laws and Chapter 5 for a detailed explanation of how they caused hurdles in the HRDs' efforts to access justice.

<sup>439</sup> See Chapter 4 for a detailed explanation about the legal deficiencies of the CCA and GEA and see Chapter 8 for recommendations to relevant Thai authorities for reforming these laws

<sup>440</sup> Court verdict, Black Case No. Por 5592/2563 and Red Case No. Por 834/2566 (previously cited), pp. 99-100.

# 8. CONCLUSION AND RECOMMENDATIONS

## 8.1 CONCLUSION

After the 2014 military coup in Thailand, a number of women and LGBTI people decided to undertake peaceful activism and stand up for their human rights. They leveraged digital technology as a key tool for activism and protest – both in the online and offline worlds – amid the repressive political climate. However, they told Amnesty International that, in response to this activism, they experienced severe backlash in the form of TfGBV.

First, many women and LGBTI HRDs faced unlawful targeted digital surveillance by being targeted with Pegasus spyware or suffering attacks to their Facebook accounts from “government-backed or sophisticated” actors. Second, state officials and non-state actors targeted women and LGBTI HRDs by harassing them online. HRDs suffered abusive language laden with misogyny and anti-LGBTI hatred; and at times they were targeted with smear campaigns and doxing. Muslim LGBTI defenders experienced multiple forms of discrimination, as they were also targeted with malicious threats of violence by anti-LGBTI actors within their own religious community.

The two forms of TfGBV are inextricably linked to violence suffered by women and LGBTI HRDs in the offline world. Heteronormativity and patriarchy in the offline world, including discrimination, sexual and physical violence, are enabled, reproduced and augmented through digital technologies. Therefore, TfGBV heightens offline vulnerabilities for women and LGBTI HRDs which can lead to criminalization of their activism and threats to physical safety.

TfGBV has directly violated the HRDs’ right to be free from gender-based violence. It further impaired the HRDs’ ability to exercise their rights to privacy and to freedom of expression, peaceful assembly and association. In seeking to address the harms suffered, these women and LGBTI HRDs faced barriers to access effective remedy. As TfGBV has been allowed to thrive in the absence of accountability, the cumulative effects of TfGBV-induced human rights violations and abuses have served to discourage HRDs from using digital technology for their activism. In some cases, the HRDs decided to walk away from their activism altogether for fear of facing further harms.

Although Thailand continues to publicly position itself as a leader in gender equality, the reality as shown in this report is very different. The findings of this report highlight the Thai government’s failure to protect women and LGBTI HRDs from TfGBV and to uphold their basic human rights, as guaranteed under international law, including under human rights treaties to which Thailand is a state party. These include the ICCPR, CAT and CEDAW. NSO Group has also failed to adequately uphold its responsibility to respect human rights as required by the UN Guiding Principles, given the role played by its Pegasus spyware in digitally surveilling women HRDs. To ensure compliance with IHRL, Amnesty International urges the relevant actors to immediately adopt the following recommendations.

## 8.2 RECOMMENDATIONS

### TO THE GOVERNMENT OF THAILAND

- Take immediate measures to address TfGBV against women and LGBTI HRDs by:
  - Publicly committing to refrain from the use of targeted digital surveillance and online harassment, and protecting HRDs and other members of civil society from such surveillance and harassment, both within and outside Thailand;
  - Carrying out a prompt, independent, impartial and transparent investigation into all documented and reported instances of TfGBV against women and LGBTI HRDs, including but not limited to the use of unlawful targeted digital surveillance and online harassment mentioned in this research;
  - Enacting and implementing comprehensive legislative and policy measures to recognise, prevent, document, investigate and address all forms of TfGBV and provide redress and support for survivors;
  - Providing effective remedy in line with IHRL and standards to survivors of TfGBV, that are trauma-informed, survivor-centric and adopt an intersectional feminist approach, including by ensuring access to information about human rights abuses against them, guaranteeing equal and effective access to justice and providing appropriate reparations based on consultations with the survivors;
  - Proactively removing structural and systemic barriers to gender equality, including by undertaking legislative measures, social policies and educational programmes to eliminate gender stereotypes, negative social norms and discriminatory attitudes against women, girls and LGBTI people and create awareness about the phenomenon of TfGBV, its consequences and intersectional harms;
  - Ensuring meaningful consultation with civil society organisations, HRDs and activists working on women's rights, gender and sexuality, SOGIESC issues and feminist approaches to technology, especially those from marginalized communities, in the process of any policy development, and its implementation and monitoring.
- Adopt the following recommendations for ending arbitrary targeted digital surveillance:
  - Proactively disclose information about all previous, current and future contracts between all state entities, including security agencies, and private surveillance companies;
  - Enforce a ban on highly invasive spyware, whose functionality cannot be limited to only those functions that are necessary and proportionate to a specific use and target, or whose use cannot be independently audited;
  - Implement a human rights regulatory framework that governs surveillance and is in line with IHRL and standards. Until such a framework is implemented, a moratorium on the purchase, sale, transfer and use of all spyware should be enforced.

- Take the following actions to counteract the chilling effect and create a safe and enabling online environment where women, girls and LGBTI people are able to freely and safely exercise their rights to freedom of expression and assembly in digital spaces, without fear of discrimination, harassment, intimidation and violence, in line with international standards and safeguards.
  - End all criminal proceedings against all people, including women and LGBTI HRDs, charged solely for their involvement in peaceful protests or for exercising their right to freedom of expression;
  - Establish and enforce codes of conduct on public communications for officials to ensure state actors do not engage in online harassment, including the use of gendered disinformation, against women and LGBTI HRDs.
- Facilitate international cooperation to monitor, evaluate and strengthen Thailand’s international human rights obligations related to the protection of women and LGBTI people from TfGBV as follows:
  - Respond positively, with no further delay, to requests from UN Special Procedures, particularly from the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Independent Expert on sexual orientation and gender identity to visit Thailand and proceed to confirm dates for the visit of the Working Group on discrimination against women and girls;
  - Issue an invitation to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to visit Thailand.
- Instruct law enforcement agencies to take the following actions:
  - Prioritize capacity-building and training of all law enforcement bodies on TfGBV and guarantee survivors’ access to justice in line with IHRL and standards;
  - Adopt a specialized protocol for law enforcement officials in addressing TfGBV through a gender-sensitive, trauma-informed response;
  - Provide protection for women and LGBTI HRDs who wish to pursue legal actions for TfGBV to ensure they are safe from reprisals.
- Carry out the following legal reforms:
  - Enact and implement comprehensive legislation to recognize, prevent, document, investigate and prosecute online gender-based violence and provide redress and support for survivors;
  - Amend the GEA by removing exemptions that gender-based discrimination on grounds of religious principles and national security are permissible under Section 17(2) of the law, in line with the recommendation from the CEDAW Committee;
  - Amend or repeal legal provisions that criminalize online expression, including Article 112 and Article 116 of the Criminal Code and Article 14 of the CCA;
  - Undertake a review of the CCA, the PDPA, the CSA and the NSA to bring them into conformity with IHRL and ensure robust safeguards on the right to privacy.



## **TO NSO GROUP**

- Cease the use, production, sale, transfer and support of Pegasus or other similar highly invasive spyware that can neither be independently audited nor limited in its functionality, given that technical safeguards and a human rights-respecting regulatory framework would still be insufficient to prevent their adverse human rights impacts;
- Carry out appropriate human rights due diligence to identify the potential human rights impacts of all its other products. The due diligence process must allow the company to determine whether technical safeguards could ensure its products are rights-respecting or not. If the safeguards could serve this purpose, the company must immediately put them in place;
- Provide adequate compensation and other forms of redress to survivors of unlawful targeted surveillance through Pegasus spyware in Thailand.

## **TO OTHER SURVEILLANCE TECHNOLOGY COMPANIES**

- Immediately terminate the use, transfer, support and sale of its technologies in states where surveillance software has been misused to unlawfully target HRDs, journalists and members of civil society, or where there are inadequate safeguards to prevent abuse;
- Urgently take steps to ensure that HRDs do not continue to become targets of unlawful surveillance using its products or services, including by implementing adequate human rights due diligence processes, as set out in international business and human rights instruments such as the UN Guiding Principles, to ensure its activities, or those of its subsidiaries, sub-contractors and suppliers, respect the rights of HRDs and do not hinder their legitimate work;
- Conduct human rights due diligence, including conducting robust human rights risk assessments, for all proposed use, sales and transfers, including engaging with rights holders. The human rights due diligence process should also be transparent.

# ANNEX 1: PROFILES OF INTERVIEWED HUMAN RIGHTS DEFENDERS

Below is the alphabetical list of women and LGBTI human rights defenders interviewed by Amnesty International and brief descriptions of their profiles. It includes 25 individuals who provided consent for Amnesty International to include their names in this report. Amnesty International, nonetheless, acknowledges many women and LGBTI human rights defenders, particularly those living in the SBPs, who provided valuable contributions to the making of this research yet were unable to reveal their full names due to risks of reprisals.

## **AITARNIK CHITWISET**

Aitarnik Chitwiset (She/her) identifies as a transwoman human rights defender. She independently works as an activist on LGBTI rights. Aus's work heavily relies on social media platforms where she has set up her public accounts primarily for raising awareness about gender-related issues.

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## **ANCHANA HEEMINA**

Anchana Heemina (She/her) is one of the leading Malay Muslim women human rights defenders in Thailand. She started her organization, Duay Jai Group, a grassroots human rights organization based in Pattani Province, after her sister's husband was wrongfully arrested and detained for allegations relating to national security. Her activism focuses on the documentation of human rights violations in the SBPs of Thailand and the provision of rehabilitation for victims of the violations.

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## **ANGKHANA NEELAPAIJIT**

Angkhana Neelapaijit (She/her) is a prominent woman human rights defender in Thailand. She dedicated her life to activism when her husband Somchai Neelapaijit, who is a renowned human rights lawyer, became a victim of enforced disappearance on 12 March 2004. She founded the Justice for Peace Foundation and served as a former National Human Rights Commissioner in Thailand from 2016 to 2019. Now, she works as an expert member of the UN Working Group on Enforced or Involuntary Disappearances.

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<b>BUSSARIN PAENAEH</b>	Bussarin Paenaeh (She/her) is a Muslim woman human rights defender who has been working at Thai human rights NGO iLaw since 2016. She began her activism shortly before the coup in 2014, when she was still a university student. Through her work at iLaw, she has been working with Amnesty International Thailand to develop a database called Mob Data to record public protests in Thailand since 2020. She told Amnesty International: “We needed detailed, factual information to be able to engage with the authorities. We needed to facilitate access to information for the people”.
<b>BENJA APAN</b>	Benja Apan (She/her) is an independent youth activist and third-year engineering student at Thammasat University. Back in 2019, she started her activism as one of the leaders of the United Front of Thammasat and Demonstration, a group run by Thammasat University students which staged many mass pro-democracy protests in Bangkok between 2020 and 2021. She was vocal about the government’s failure to handle the Covid-19 pandemic, monarchical reforms, lack of judiciary independence and the right to bail for political activists in detention.
<b>BENJAMAPORN NIVAS</b>	Benjamaporn Nivas (They/them) is a non-binary human rights defender. They started their activism as a high school student at the age of 15 years old as one of the key leaders of the group Bad Students which advocated for children’s rights in school. Due to the Thai government’s crackdown on the pro-democracy movement, they had fled Thailand and sought asylum in Canada.
<b>CHATRAPEE ARTSOMBOON</b>	Chatrapee Artsomboon (She/her) was the President of Salaya for Democracy, a group of student activists providing support on “behind-the-scenes actions” for the pro-democracy protest movement such as coordination, event organization, and fundraising.
<b>DARANEE THONGSIRI</b>	Daranee (They/them) is a non-binary human rights defender and feminist scholar. They founded the group Feminista, an organization that raises awareness about feminism in online platforms. In the past, they used to be based in Pattani Province where they worked on empowering LGBTI people in the SBPs of Thailand.
<b>INTIRA CHAROENPURA</b>	Intira Charoenpura (She/her) is known primarily in Thailand for her work in show business as a successful actress and singer. In recent years however she has also become known for her activism alongside the pro-democracy protest movement. Her role focused on providing back-end support, including providing the logistical and financial support to activists during the mass pro-democracy protests.
<b>JUTATIP SIRIKHAN</b>	Jutatip Sirikhan (She/her) is a woman human rights defender and former protest leader. When she was a university student at Thammasat University, she was one of the leading figures in the pro-democracy group Free Youth. Her advocacy focuses on demanding civil and political rights and accountability for survivors of human rights violations, including enforced disappearance.

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**MANUN  
WONGMASOH**

Manun Wongmasoh (She/her) is a transwoman human rights defender working as a Campaigns Officer at Amnesty International Thailand. Apart from her work at Amnesty International, 25-year-old Noon is also an independent LGBTI rights defender advocating for protection of Muslim LGBTI people in Thailand. Born in a religious family in Nakhon Nayok province of central Thailand, Noon was inspired to undertake her activism on this issue because some Islamic principles have been distorted and weaponized against LGBTI people in Thailand.

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**NADA CHAIYAJIT**

Nada Chaiyajit (She/her) is an intersex transgender woman human rights defender. She also teaches law at Mae Fah Luang University in northern Thailand. She has run many successful campaigns to raise awareness about cases of sexual harassment and discrimination against LGBTI people and women through using online platforms, especially the website change.org and Facebook.

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**NITCHAKARN  
RAKWONGRIT**

Nitchakarn Rakwongrit (They/them) is a young non-binary human rights defender and feminist activist who started out their activism in 2020 when they were 17-year-old high school student. They started their own group called Feminist FooFoo which promotes the rights of LGBTI youth and children, as well as actively participates in activities of many other feminist groups.

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**NIRAPHORN  
ONNKHAOW**

Niraphorn Onnkhaow (She/her) is a 22-year-old woman human rights defender who advocates for human rights, freedom of expression and peaceful assembly and democracy. Niraphorn formally started her activism in 2020 at Thammasat University, where she pursued a degree in English. She joined the United Front of Thammasat and Demonstration where she ran back-end operations of the group.

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**NITINAN  
NGAMCHAIPISIT**

Nitinan Ngamchaipisit (They/them) is a non-binary rights advocate, working with various civil society groups, including Non-Binary Thailand. They have been campaigning on a wide range of issues, such as the passage of a law on legal gender recognition.

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**PANAN**

Panan (She/her) is a queer transgender woman human rights defender based in Chiang Mai in northern Thailand. She co-founded a group of young LGBTI activists called Young Pride Club where she advocated for LGBTI rights through an intersectional lens.

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**PATCHARADANAI  
RAWANGSUB**

Patcharadanai Rawangsub (He/him), who identifies as a gay man, was a member of Talu Fah, one of the prominent pro-democracy groups in Thailand. He is a human rights defender, advocating for freedom of expression and peaceful assembly in Thailand.

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<b>PAVIN CHACHAVALPONGPUN</b>	Pavin Chachavalpongpun (He/him) is an openly gay scholar and prominent academic living in Japan. He is an outspoken critic of the military and the monarchy. After the 2014 coup, the Thai military summoned Pavin for “attitude adjustment” and subsequently issued an arrest warrant for his failure to report to the authorities and charged him with lèse-majesté, resulting in him seeking asylum in Japan.
<b>PANUPONG MANEEWONG</b>	Panupong Maneewong (He/him) is one of the pro-democracy protest leaders in Thailand who identifies as “gender-diverse”. He became interested in undertaking activism after experiencing personal impacts on economic policies during the Covid-19 outbreak in Thailand. His activism is linked to the issues related to civil and political rights.
<b>PANSIREE JIRATHAKOONE</b>	Pansiree Jirathakoone (She/her) was a member of Salaya for Democracy. She played a critical role in the group’s decision-making processes when organizing or providing support for pro-democracy protests.
<b>PANUSAYA SITHIJIRAWATTANAKUL</b>	Panusaya Sithijirawattanakul (She/her) is one of the leaders of the United Front of Thammasat and Demonstration. Her activism has been inspired by her passion in combatting sexual and gender-based violence, as well as other forms of gender equality. She became one of the most well-known student activists in Thailand due to her activism related to the reforms of the monarchy.
<b>PIYANUT KOTSAN</b>	Piyanut Kotsan (She/her) is a vocal and prominent human rights defender in Thailand. She has been serving as the Executive Director of Amnesty International Thailand since 2015. She has worked on a wide range of human rights issues in Thailand, including the rights of refugees and asylum seekers, the abolition of death penalty and the rights to freedom of expression and assembly.
<b>PLOY</b>	Ploy (She/her) is a prominent digital journalist in Thailand. As part of her role, she regularly uses social media platforms to report on various human rights issues, including civil and political rights, gender-based violence and the rights of Malay Muslim people in the SBPs.
<b>PORNPEN KHONGKACHONKIET</b>	Pornpen Khongkachonkiet (She/her) is a prominent woman human rights defender in Thailand. She heads the Cross-Cultural Foundation, a Bangkok-based human rights organization that works on torture and enforced disappearance in Thailand and works extensively with local communities in the country’s SBPs.
<b>SIRAPHOP ATTOHI</b>	Siraphop Attohi (She/her, they/them) is a queer human rights defender who started their activism in 2020 as a 22-year-old dramatic arts student at Chulalongkorn University. They later co-founded the Seri Toey Plus, an LGBTI-led protest group calling for democracy and gender equality.

# ANNEX 2: GOVERNMENT LETTERS

Response letters from Thailand's Ministry of Foreign Affairs, Prime Minister's Office and Ministry of Justice dated 19, 24 and 29 April 2024, respectively. Amnesty International unofficially translated the original Thai versions of the letters from the Prime Minister's Office and Ministry of Justice into English.

## **Ministry of Foreign Affairs' response to Amnesty International's Findings on Technology-facilitated gender-based violence (TfGBV) against women and LGBTI human rights defenders in Thailand**

It is unfortunate that Amnesty International (AI) has **restricted constructive and meaningful engagement with the government sector** before the launch of this report. The letter from Amnesty International (AI) was dated 3 April 2024 and received days afterwards. AI expected a response by 19 April 2024, which is two days after the long Songkran holiday in Thailand. For Amnesty International's report to be balanced and credible, views of all stakeholders, including government agencies, should be taken into account. All stakeholders should be given equal opportunities and sufficient time to respond, provide feedbacks and information.

The report **selectively mentioned allegations** that questioned Thailand's commitment to the rights of women and girls, LGBTI and human rights defenders. This is misleading as Thailand has continued to demonstrate its commitment to advance the rights of women and girls, LGBTI, as well as human rights defenders. These groups have continuously been identified as our priority groups in the **National Human Rights Plan**. Human Rights Defenders are among the priority groups in the 1st and 2nd **National Action Plan on Business and Human Rights**. The progress on the **draft Act on Equal Marriage** also clearly demonstrates Thailand's strong commitment to advance the rights of LGBTI. A number of interested CSOs participated in the discussion and deliberation of the draft by the Thai Parliament.

The **Constitution of the Kingdom of Thailand B.E. 2560 (2017)** contains provisions on the protection of Thai citizens **from discrimination and violence**. Section 71, in particular, specifies that the State provides protection to children, women, the elderly and the marginalized from violence or unfair treatment, as well as treatment, rehabilitation and remedies to injured persons. Accordingly, Thailand has established mechanisms to provide essential services and support

for victims of gender-based violence, including legal assistance and social support.

The enactment of the **Gender Equality Act in 2015, which is selectively criticised by Amnesty International**, was, in fact, an important milestone in providing a legal basis for the protection of all persons against gender-based discrimination. A number of mechanisms have also been established under this Act, including the Committee on the Determination of Unfair Gender Discrimination, which has so far received 67 complaints, almost 75 percent of which were related to LGBTI.

With regard to **the use of pegasus spyware**, there has not been any proven evidence as to which government agency has utilized the spyware. It should be stressed that according to **the Computer-Related Crime Act B.E. 2550 (2007)**, those who illegally accesses to a computer system that has specific security measures and such security measures are not intended for his/her use, shall be liable to imprisonment and/or fine punishment.

Regarding **online smear campaign through the website, pulony.blogspot.com, and judicial remedies**, no causal linkage has been proved that state actors had carried out such operations. In fact, in a lawsuit at the Bangkok Civil Court, whereby human rights defenders alleged that the Office of the Prime Minister (which oversees the Internal Security Operation Command: ISOC) and the Royal Thai Army (RTA) arranged or permitted an online smear campaign and a disinformation campaign against them, through the website pulony.blogspot.com, the Court carefully and thoroughly deliberated and considered this allegation before dismissing it for absence of proof that the website was affiliated with ISOC or RTA. The Secretary-General of ISOC also gave a press interview stating that the website was not part of any state agency, but it has been monitored and placed on the watchlist of ISOC. In addition, the **Computer-Related Crime Act B.E. 2550 (2007)** criminalizes online input of distorted or false computer data that is likely to cause damage to the general public or to another person as well as online import of pictures of another person

which have been electronically edited or modified in a manner which is likely to impair the reputation of that other person, to expose that other person to hatred, contempt or humiliation. Victims of such online attacks can file complaints and report the case with inquiry officials under the Act.

It is important to emphasize that all human rights defenders, including women and LGBTI, have **access to the justice system**, including the **right to file lawsuits** under relevant laws and **the right to appeal** the case to the Court of Appeal.

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No: MOJ 0401/4721

The Ministry of Justice,  
Chaeng Watthana Rd, Laksi,  
Bangkok 10210

29 April 2024

Subject: Amnesty International's findings on technology-facilitated gender-based violence against women and LGBTI human rights defenders in Thailand

To: Deputy Regional Director on Research (East Asia and Southeast Asia and the Pacific Regional Office Amnesty International)

Reference: Amnesty International Letter No. TG ASA 39/2024.5378 dated 3<sup>rd</sup> April 2024

Kindly refer to the letter by Amnesty International that requests a response from the Ministry of Justice based on the report documenting experiences of women, lesbian, gay, bisexual, transgender, and intersex (LGBTI) human rights defenders in Thailand who have encountered Technology-Facilitated Gender-Based Violence (TFGBV). Details are as you are aware of.

The Ministry of Justice would like to keep you informed of the Ministry of Justice's work to protect and provide assistance to human rights defenders as follows:

1. Regarding the policy:

Human rights defenders are one of the main priority groups under the fifth National Human Rights Plan (2023-2027) and considered one of the second phase of the National Action Plan on Business and Human Rights (2023-2027). Both plans are considered national human rights policy frameworks under which every agency has the responsibility to materialise into substantive outcomes. The focus is given to: 1) The ratification of International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) 2) The development of laws, measures, or mechanisms to protect human rights defenders 3) Building the right understanding about the role of human rights defenders 4) Encouraging mediation based on the 2019 Dispute Mediation Act and 5) Providing remedy as appropriate.

2. Regarding the law:

1) The amendment of the 2003 Witness Protection Act and its 2021 Amending Act (No.2) were announced in the Royal Gazette on 26<sup>th</sup> August 2022 and have been effective from 24<sup>th</sup> November 2022. The laws referred to extended protection to the whistleblower and the informant of criminal offence so that their safety is guaranteed, the treatment is appropriate, and they are compensated as deemed necessary by the state. This is another measure to protect human rights defenders and to prevent strategic lawsuit against public participation.

2) The 2022 Prevention and Suppression of Torture and Enforced Disappearance Act was promulgated and has been effective from 22<sup>nd</sup> February 2023. The law referred defines offence and sentence of an act of torture, inhumane cruelty, or degradation of human dignity, and enforced disappearance as well as the measure to protect and prevent the offence, the measure to provide remedy to the injured party, and other relevant measures. The committee mechanism to regulate policy and monitor the overall situation has been established under the framework of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention for the Protection of all Persons from Enforced Disappearance. This is to enhance protection of citizens which include human rights defenders.

3. Regarding the operation:

1) The promotion of access to justice via services of the Ministry of Justice such as legal assistance either by grievance mechanism, legal consultation, the promotion of alleged offender's rights in the criminal investigation, dispute mediation, witness protection, and remedies for victims of crimes. This is to help solve problems and facilitate justice for citizens to have a convenient, swift, comprehensive, equitable, and low-cost access to justice, and to exercise their equal rights before the justice system.

2) The continual knowledge dissemination about the role of human rights defenders to every sector ranging from hosting meetings, training sessions, seminars, and publication of public relations products so that every sector has the understanding about the role of human rights defenders. This includes coordination between entities as well.

3) The study of the implementation of guidelines to protect human rights defenders and the guidelines to improve the laws and measures to enhance the efficiency in preventing strategic lawsuit against public participation, together with United Nations Development Programme (UNDP).

4) The dispatch of the Rights and Liberties Protection Department officers to observe cases relevant to human rights defenders.

Please be informed accordingly.

Yours sincerely,

(Mrs. Pongsawat Neelayothin)  
Permanent Secretary of the Ministry of Justice

Rights and Liberties Protection Department  
Tel.: 09 5457 9538 (Chattraphon)  
Email: chattraphon.d@rlpd.go.th



No: Nor Ror 0105.5/42928

The Office of the Permanent Secretary,  
the Prime Minister's Office  
Government House Bangkok 10300

24 April 2024

Subject: Recommendations regarding the protection of women and LGBTI human rights defenders  
from technology-facilitated gender-based violence

To: Ms. Montse Ferrer

Reference: Your letter of request dated 3<sup>rd</sup> April 2024

In the letter of request referenced above dated the 3<sup>rd</sup> of April 2024, you have proposed recommendations regarding the protection of women and LGBTI human rights defenders from technology-facilitated gender-based violence. Details are as you are aware of.

The Office of the Permanent Secretary, the Prime Minister's Office has forwarded the matter to the Ministry of Justice, Ministry of Digital Economy and Society, and the Royal Thai Police to be informed for further consideration.

Please be informed accordingly.

Yours sincerely,

(Mrs. Nalinee Mahakhandha)

Acting Director of the Public Service Center  
Office of the Permanent Secretary, the Prime Minister's Office

Public Service Center

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Subject no.: Nor Ror 01670001776



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# “BEING OURSELVES IS TOO DANGEROUS”

## DIGITAL VIOLENCE AND THE SILENCING OF WOMEN AND LGBTI ACTIVISTS IN THAILAND

As part of Amnesty International's global flagship campaign Protect The Protest, this report tells the stories of women and LGBTI human rights defenders in Thailand who courageously sought to leverage digital technology for advancing their peaceful activism amid the shrinking civic space since the 2014 military coup. These defenders nonetheless faced technology-facilitated gender-based violence (TfGBV), including targeted digital surveillance and online harassment. The report further analyses the impacts of TfGBV in terms of producing a chilling effect among women and LGBTI defenders. Ultimately, TfGBV forces women and LGBTI people to limit or cease the exercise of their rights to freedom of expression and peaceful assembly, driving them out of the civic space and silencing their voices.

Index: ASA 39/7955/2024

May 2024

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