

THAILAND

FACT SHEET

Thammakaset vs. human rights defenders and
workers in Thailand



May 2019



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Cover photo: MWRN staff, 14 migrant workers from Myanmar, and Mr. Andy Hall at the MWRN office in Samut Sakhon in July 2018. © Migrant Workers Rights Network

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Since the May 2014 coup d'état, Thailand's human rights record has dramatically deteriorated. Military rule has had a wide-ranging, negative impact on the country's human rights situation, particularly through the imposition of numerous orders and announcements issued by the ruling junta, the National Council for Peace and Order (NCPO). These decrees and other repressive legislation, such as the Public Assembly Act, the Computer Crimes Act, and various provisions of the Criminal Code, including 'defamation' and 'sedition' have been frequently used to target human rights defenders, including lawyers, pro-democracy activists, journalists, and community-based defenders.

A human rights defender is a person who, individually or with others, acts peacefully in the name of individuals or groups to promote, defend and protect the human rights and fundamental freedoms recognised by the Universal Declaration of Human Rights and guaranteed by various international instruments. As a result of their active commitment, defenders run the risk of, or are subject to, reprisals, harassment, and violations of their rights.

Harassment by Thammakaset: At least 14 cases, 22 defendants

Since 2016, Thammakaset Co., Ltd., a poultry farm in Lopburi Province, Thailand,¹ has used criminal defamation laws to intimidate and silence human rights defenders and workers who exposed exploitative working conditions at its poultry farm. Thammakaset has filed complaints with the police, the Criminal Court, and the Civil Court against at least 22 individuals – including its workers, human rights defenders, and two reporters – for alleged defamation of the company.

Despite advocacy and other actions undertaken by a number of European companies in support of various defendants in cases filed by Thammakaset, the company's harassment against human rights defenders and workers has persisted - a fact that reveals the need for stronger action to curb these attacks.

In October 2016, Thammakaset filed complaints against **14 former workers** for reporting alleged abuses of labour rights by Thammakaset to the National Human Rights Commission of Thailand (NHRCT).² The 14, all migrant workers from Myanmar, reported that Thammakaset had violated Thailand's Labour Protection Act by paying workers less than minimum wage, failing to pay overtime wages, and confiscating their identity documents. On August 1, 2016, the Department of Labour Protection and Welfare (DLPW) in Lopburi Province issued an order that required the company pay 1.7 million THB (US\$54,000) for unpaid wages in compensation for violations of Thailand's Labour Protection Act. The case was sent to the Labour Court for adjudication. On March 12, 2019, the Supreme Court affirmed the ruling and compensation granted to the 14 workers, almost three years after the workers resigned from the poultry farm.

In November 2016, Thammakaset also filed criminal defamation complaints with the Bangkok South Criminal Court against labour rights activist **Mr. Andy Hall**. In October 2017, the company filed criminal complaints with the Lopburi Provincial Court against two of the 14 migrant workers for alleged theft of employee timecards to show their working hours to an officer of the DLPW. The same complaint was also filed against woman human rights defender and Coordinator of the Migrant Workers Rights Network (MWRN), **Ms. Suthasinee Kaewleklai**.

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¹ Thammakaset Co., Ltd. was registered under the Civil and Commercial Code on April 11, 2005. Its capital is 80 million THB (US\$2.5 million). The head office is in Lopburi Province. In a statement issued in August 2016, Betagro, one of the largest agriculture and food companies in Thailand, confirmed that Thammakaset was one of its suppliers, but said it had since "stopped business operations with the farm until there is a solution to the labour conflict."

² The 14 former workers are: Messrs. Nan Win, Tun Tun Win, Soe Yong, Nay Min Tun, Thu Ya, Moe, Nan Toe, Myint Aung, and Mses. Ye Ye, Ka Thway Soe, San San, May Lin, Ju, and Wai Wai.

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In October 2018, Thammakaset filed several defamation complaints against **Mr. Nan Win** (one of the 14 migrant workers) and **Ms. Sutharee Wannasiri**, a Thai human rights defender and former Thailand Human Rights Specialist with the human rights NGO Fortify Rights.³ In March 2019, the company also filed defamation complaints against a **female reporter** with *Voice TV and* against **Mr. Tun Tun Win** (one of the 14 migrant workers).

The complaints filed by Thammakaset [See below, *Cases filed by Thammakaset*] constitute judicial harassment by the company and appear to be reprisals against human rights defenders and workers involved in exposing labour rights abuses. Such reprisals interfere with the legitimate work of human rights defenders and prevent the implementation of labour rights protections, as guaranteed by domestic and international law.

USE OF STRATEGIC LITIGATION AGAINST PUBLIC PARTICIPATION (SLAPP)

The complaints brought by Thammakaset are emblematic of Strategic Litigation against Public Participation (SLAPP) lawsuits. SLAPP lawsuits can be criminal or civil lawsuits. The complaints are usually based on the defendant's actions in exercising their civil and political rights over an issue of public interest. Individuals, rather than entities, are usually targeted by legal action meaning that the individual has to bear all costs during the legal proceedings, as well as risk being imprisoned or having to pay a high amount of compensation to the plaintiff. SLAPP lawsuits have had a deterrent effect on those wishing to discuss issues of public interest, due to fears of reprisals. The cases filed by the company can be summarised as follows:

The legal grounds invoked by Thammakaset for its complaints are mostly defamation, including both criminal defamation and civil defamation. Thailand's Criminal Code has offences of defamation aiming to protect the reputation of individuals. Thailand's Civil and Commercial Code codifies civil defamation.

A number of amendments made to the Criminal Procedure Code, which came into effect in February and March 2019, could be considered as an attempt by the government to address SLAPP lawsuits, especially the amendment of Thailand's Criminal Procedure Code:

- The first one regards the preliminary hearing (the court hearing to examine a complaint against the defendant; whether the evidence is sufficient to establish a *prima facie* case). The amendment is aimed to increase the protection of a defendant's rights during the preliminary hearing. It includes the right to lawyer, and access to legal aid (Article 165/1 of the Criminal Procedure Code), and the right to submit the facts, laws and evidence to the court, to prove that there is no *prima facie* case (Article 165/2 of the Criminal Procedure Code).
- The second one is about the Criminal Court's power to dismiss a case (for private prosecution cases). This amendment has given the court the discretion and power to dismiss a case, if it appears to the court that the case has been filed: (a) in bad faith, (b) in a misrepresentation of the facts, (c) to abuse or take advantage of the defendant, or (d) with an expected result other than a legitimate consequence (Article 161/1 of the Criminal Procedure Code).

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³ See Observatory, *Urgent Appeal THA 005 / 1118 / OBS 137*, November 27, 2018; available at: <https://www.fidh.org/en/issues/human-rights-defenders/thailand-judicial-harassment-of-ms-sutharee-wannasiri-and-mr-nan-win>

Cases filed by Thammakaset

1. Criminal case against 14 former workers for reporting the labour rights violations to the NHRCT

On October 6, 2016, Thammakaset filed a complaint with the Don Mueang Kwaeng [Sub-District] Court in Bangkok against **14 migrant workers** from Myanmar for allegedly “providing false information to an official” (Article 137 of the Criminal Code) and “defamation” (Article 326), after the workers submitted a complaint over alleged labour rights violations to the National Human Rights Commission of Thailand (NHRCT).⁴ Thammakaset alleged that their complaint to the NHRCT had damaged the company’s reputation. On July 11, 2018, the court dismissed the case against the 14 migrant workers. The court found that the workers filed the complaints of labour violations while working at Thammakaset farm to the NHRCT in good faith to defend their own rights. Even though some of the details of the information provided by the workers were inaccurate, the workers’ provision of information to the NHRCT did not amount to providing false information. Thammakaset has appealed the court’s verdict. The appeal is still pending.

2. Criminal case against two former workers and the Coordinator of the MWRN for taking the employees’ timecards to use them as evidence of working excessive hours without overtime pay

2.1 Public prosecution against two former workers

On June 24, 2016, **Ms. Ye Ye** and **Mr. Soe Yong**, two of the 14 migrant workers, were charged by a police officer for stealing employee timecards (Article 334 of the Criminal Code), properties of the employer (Article 335(11)) by night (Article 335(1)), as alleged by Thammakaset. The charges stemmed from the fact that they had presented their employee timecards to government labour inspectors from the Department of Labour Protection and Welfare (DLPW) as evidence of labour violations. Thammakaset alleged the two had stolen the timecards. However, the Lopburi Public Prosecutor’s Office decided not to proceed with prosecution against the two workers because they did not commit a crime, as their intentions were not dishonest.

2.2 Private lawsuit against two former workers and the coordinator of the MWRN

On October 24, 2017, Thammakaset filed a criminal complaint with the Lopburi Provincial Court, for alleged “co-commission of theft by night” (Articles 334 and 335(1) of the Criminal Code), “receiving stolen property” (Article 357), and “taking away a person’s document, likely to cause damage to that person” (Article 188), against the two workers, Ms. Ye Ye and Mr. Soe Yong. Thammakaset’s complaint also included allegations against **Ms. Suthasinee Kaewleklai**, a labour rights activist and the Coordinator of the Migrant Workers Rights Network (MWRN), a civil society organisation promoting and protecting the rights of migrant workers, for acting as a co-commissioner, an instigator or a supporter of the above-mentioned offences.⁵ On September 3, 2018, during the preliminary hearing, the Lopburi Provincial Court dismissed the merit of the complaint against the two workers and Ms. Suthasinee. The

⁴ On July 6, 2016, the 14 workers submitted a complaint to the NHRCT alleging that Thammakaset had violated Thailand’s Labour Protection Act by paying workers less than minimum wage, failing to pay overtime wages, and confiscating their identity documents. In separate investigations, both the DLPW and the NHRCT found evidence of labour rights abuses, including that Thammakaset had failed to pay minimum and overtime wages and failed to provide adequate leave to workers as required by law.

⁵ Articles 83 (co-commission of an offence), 84 (being an instigator) and 86 (being a supporter) of the Criminal Code.

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Court found that the timecards were taken in order to be presented to the labour inspector of Lopburi Province without dishonest intention. The Court also found the defendants did not change any information on the timecards, and that the company already had a duty to present such a document to the labour inspector, therefore the company's reputation was not damaged. Thammakaset has appealed the Court's dismissal of the case and the Lopburi Provincial Court will read the appeal verdict on June 11, 2019.

3. Criminal case against a labour rights activist for posting and sharing information regarding labour rights abuses

On November 4, 2016, Thammakaset filed a criminal complaint with the Bangkok South Criminal Court against **Mr. Andy Hall**, a British national and labour rights defender, for alleged defamation (Article 326 of the Criminal Code) and libel (Article 328) and another offence under Article 14(1) of the Computer Crimes Act,⁶ in connection with his use of social media to highlight the criminal charges against the 14 migrant workers. The complaint against Mr. Hall is still pending at the Bangkok South Criminal Court.



Mr. Andy Hall. © Andy Hall

4. Criminal case against a former worker for speaking about his work conditions during a press conference and in a short film, and for posting such information on Facebook

On October 8, 2018, Thammakaset filed a criminal complaint with the Criminal Court in Bangkok, for alleged "defamation" (Article 326 of the Criminal Code) and "libel" (Article 328), against **Mr. Nan Win**, one of the 14 migrant workers from Myanmar, based on two interviews he gave to the human rights NGO Fortify Rights at its press conference, which was broadcast on Facebook Live,⁷ and in a short campaign video produced by Fortify Rights

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⁶ Article 14(1) of the 2007 Computer Crimes Act previously stated it an offence for any person to commit any act that involves import to a computer system of forged computer data, either in whole or in part, or false computer data, in a manner that is likely to cause damage to that third party or the public. However, the offence has been revised not to include the crime of defamation under the Criminal Code (revision under the Computer Crimes Act (No. 2) 2017).

⁷ On October 6, 2017, Mr. Nan Win spoke at a Fortify Rights press conference "Breaking the Silence: Human Rights Defenders in Southeast Asia" at the Foreign Correspondents' Club of Thailand (FCCT) in Bangkok.

and uploaded to YouTube.⁸ Thammakaset alleged that Mr. Nan Win's testimonies, which contained details of alleged labour rights abuses while he was working at Thammakaset's farm, damaged the company's reputation. The preliminary hearing was held on 4 February 2019. On March 8, 2019, the Criminal Court decided that the grounds of this case had been established, and therefore accepted to proceed with the prosecution against Mr. Nan Win.⁹ The first hearing will be held on May 24, 2019.



Mr. Nan Win (second from left) reports to Koktum police station in Lopburi Province in January 2018.
© Migrant Workers Rights Network

5. Criminal and civil cases against a former human rights specialist for posting a short film on Twitter

5.1 Criminal defamation

On October 12, 2018, Thammakaset filed a criminal defamation complaint with the Criminal Court in Bangkok, for alleged "defamation" (Article 326 of the Criminal Code) and "libel" (Article 328),¹⁰ against Ms. Sutharee Wannasiri, a former Thailand Human Rights Specialist at Fortify Rights. The complaint relates to three posts Ms. Sutharee made on Twitter about

⁸ On October 4, 2017, Fortify Rights uploaded a 107-second campaign video to YouTube, in which Mr. Nan Win described how Thammakaset had filed criminal defamation complaints against the 14 migrant workers after they reported labour rights violations to the National Human Rights Commission of Thailand. The video also demanded Thammakaset drop complaints against all 14 migrant workers.

⁹ As an accused person, Mr. Nan Win will have to appear before the Criminal Court's trial. He also has to submit a request to the Criminal Court for bail.

¹⁰ The company also requested for additional remedy for defamation offences (Article 332), i.e. to publish the court verdict in the newspaper and to destroy the defamatory information in the computer system.

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a campaign video produced by Fortify Rights.¹¹ Thammakaset alleged that Ms. Sutharee's posts damaged the company's reputation. After the preliminary hearing, on March 25, 2019, the Criminal Court in Bangkok decided to proceed with the defamation case against Ms. Sutharee. The Criminal Court also decided to combine Ms. Sutharee Wannasiri's case with Mr. Nan Win's case [see #4]. The first hearing will be held on May 24, 2019.

5.2 Civil defamation

On October 26, 2018, Thammakaset filed a separate civil defamation complaint with the Civil Court in Bangkok against **Ms. Sutharee Wannasiri**, demanding five million THB (US\$161,000) in compensation for damage to the company's reputation.¹² The complaint is related to three posts Ms. Sutharee made on Twitter about the campaign video produced by Fortify Rights, arguing that Ms. Sutharee's posts on Twitter damaged the company's reputation. Thammakaset also demanded Ms. Sutharee publish an apology to the company in four local newspapers and on her Twitter account every day for a minimum of 30 days, destroy the defamatory information in the computer or internet system, and cover all legal costs for Thammakaset. The Civil Court held a preliminary hearing for this case on December 24, 2018, set the witness hearings for August 27-30, 2019, and the verdict for October 31, 2019.



Ms. Sutharee Wannasiri.
© Sutharee Wannasiri

6. Criminal cases against a female reporter for posting information regarding the labour rights abuses on Twitter

6.1 Public prosecution

Thammakaset filed a criminal defamation complaint (Articles 326 and 328 of the Criminal Code) with the Lopburi police against a **female reporter** (name withheld for privacy reasons) from *Voice TV* in relation to a post on Twitter that the reporter made on September 14, 2017 regarding the Thammakaset's labour rights abuses. The female reporter testified at the police

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¹¹ On October 4, 2017, Ms. Sutharee posted three comments on Twitter in relation to a campaign video produced by Fortify Rights, which referred to the text in the video. The campaign video described how Thammakaset had filed criminal defamation complaints against the 14 migrant workers after they had reported labour rights violations to the NHRCT. The video also demanded Thammakaset drop complaints against all 14 migrant workers.

¹² Five million THB with 7.5% interest per year, calculated from October 26, 2018 (the day of the submission of Thammakaset's complaint to the Civil Court).

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station on May 1, 2018. On October 16, 2018, the Lopburi Public Prosecutor's Office decided not to prosecute the case.

6.2 Private lawsuit

On March 1, 2019, Thammakaset filed a criminal defamation complaint (Articles 326 and 328 of the Criminal Code) with the Lopburi Provincial Court, against the same female reporter from *Voice TV*. The preliminary hearing will be held on June 3, 2019.

7. Criminal case against a former worker for posting or sharing information online that is likely to cause damage to the company's reputation

Thammakaset filed a criminal complaint with the Bangkok South Criminal Court against **Mr. Tun Tun Win**, one of the 14 migrant workers from Myanmar, for alleged "defamation" (Article 326 of the Criminal Code) and "libel" (Article 328). Unaware that a complaint had been filed against him, on May 18, 2019, Mr. Tun Tun Win received a summons to appear before the Bangkok South Criminal Court for the first hearing on June 4, 2019. Unbeknownst to Mr. Tun Tun Win, the Court had already accepted to proceed with the prosecution against him and decided that the grounds of the case had been established by the company.

8. Criminal cases against at least 19 persons including former workers, officers of the MWRN, and a reporter for "defamation" for posting or sharing information online that is likely to cause damage to the company's reputation

Since 2016, Thammakaset has filed four criminal defamation complaints against former workers, officers of the MWRN, and reporters, mostly for posting or sharing information online that is likely to cause damage to the company's reputation. Three of the four cases are still under investigation by police:

- (1) A criminal defamation complaint against **Ms. Suthasinee Kaewleklai**, a labour rights activist and the Coordinator of the MWRN, filed in June 2016. However, the company withdrew the complaint following negotiations.
- (2) A criminal defamation complaint against **Ms. Suthasinee Kaewleklai**. The case is under investigation.
- (3) A criminal defamation complaint against **two former workers, two MWRN staff, a reporter** with *Prachatai*, and **another individual**. The case is under investigation.
- (4) A criminal complaint against **14 former workers**, for alleged defamation and giving false information to officials, related to the complaint submitted to the Department of Labour Protection and Welfare (DLPW). The case is under investigation.

HEARING SCHEDULE

Criminal cases

May 24, 2019 (*Criminal defamation; Nan Win [see #4] and Sutharee Wannasiri [see #5.1]*): The first hearing of the criminal defamation complaint will be held at the Criminal Court of Bangkok. The court previously combined Ms. Sutharee's case and Mr. Nan Win's case into one hearing.

June 3, 2019 (*Criminal defamation; female reporter [see #6]*): The preliminary hearing will be held at the Lopburi Criminal Court.

June 4, 2019 (*Criminal defamation; Tun Tun Win [see #7]*): The first hearing of the criminal defamation complaint will be held at the Bangkok South Criminal Court.

June 11, 2019 (*Theft; Ye Ye, Soe Yong, and Suthasinee Kaewleklai [see #2.2]*): The Lopburi Provincial Court will read the appeal verdict on the Court of First Instance's decision to dismiss Thammakaset's complaint in the preliminary hearing.

Civil cases

August 27-30, 2019 (*Civil defamation; Sutharee Wannasiri [see #5.2]*): The witness hearings will be held at the Civil Court in Bangkok.

October 31, 2019 (*Civil defamation; Sutharee Wannasiri [see #5.2]*): The verdict is expected to be delivered at the Civil Court in Bangkok.

RELEVANT CRIMINAL LAW PROVISIONS	
Thailand's Criminal Code	
<i>'Providing false information to any official'</i>	<u>Article 137</u> : Whoever, giving any false information to any official, and is likely to cause injury to any person or the public, shall be punished with imprisonment not exceeding six months or fine not exceeding 10,000 THB, or both.
<i>'Taking away a person's document, likely to cause damage to that person'</i>	<u>Article 188</u> : Whoever, damaging, destroying, concealing, making away, losing or rendering useless will or document of the other person in the manner likely to cause injury to another person or the public people, shall be imprisoned not out of five years and fined not out of 100,000 THB.
<i>'Defamation'</i>	<u>Article 326</u> : Whoever, imputes 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, is said to commit defamation, and shall be punished with imprisonment not exceeding one year or fined not exceeding 20,000 THB, or both.
<i>'Libel'</i>	<u>Article 328</u> : If the offence of defamation be committed by means of publication of a document, drawing, painting, cinematography film, picture or letters made visible by any means, gramophone record or an other recording instruments, recording picture or letters, or by broadcasting or spreading picture, or by propagation by any other means, the offender shall be punished with imprisonment not exceeding two years and fined not exceeding 200,000 THB.
<i>'Theft'</i>	<u>Article 334</u> : Whoever, dishonestly taking away the thing of other person or which the other person to be co-owner to be said to commit the theft, shall be imprisoned not out of three years and fined not more than 60,000 THB.
<i>'Theft by night' and 'theft from an employer'</i>	<p><u>Article 335(1) and (11)</u>: Whoever commits theft under any of the following circumstances:</p> <p>(1) By night;</p> <p>(11) Upon a thing belonging to or in possession of the employer;</p> <p>Shall be punished with imprisonment of one to five years and fined 20,000 to 100,000 THB.</p> <p>If the offence committed according to the first paragraph comes under the circumstances provided in the above-mentioned sub-articles from two sub-articles upwards also, the offender shall be punished with imprisonment of one to seven years and fined 20,000 to 140,000 THB.</p>

'Receiving stolen property'	<u>Article 357, paragraph 1</u> : Whoever, assists in concealing, disposing of, making away with, purchases, receives in pledge or otherwise any property obtained through the commission of an offence, and such offence being theft, snatching, extortion, blackmail, robbery, gang-robbery, cheating and fraud, misappropriation or misappropriation by an official, is said to receive stolen property, and shall be punished with imprisonment not exceeding five years or fined not exceeding 100,000 THB, or both.
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2007 Computer Crimes Act

'Import to a computer system of false data'	<p><u>Article 14(1) of the 2007 Computer Crimes Act (revoked)</u>: Any person who commits any of the following crimes shall be liable to imprisonment for not more than five years, or a fine of not exceeding 100,000 THB, or both:</p> <p>(1) that involves import to a computer system of forged computer data, either in whole or in part, or false computer data, in a manner that is likely to cause damage to that third party or the public;</p> <p>Note: under the Computer Crimes Act (No. 2) of 2017, Article 14 has been revised not to include the crime of defamation under the Criminal Code. The revisions are:</p> <p><u>Article 14(1) of the 2007 Computer Crimes Act (new)</u>: Any person who commits any of the following crimes shall be liable to imprisonment for not more than five years, or a fine of not exceeding 100,000 THB, or both:</p> <p>(1) dishonestly or deceitfully bringing into a computer system computer data which is distorted or forged, either in whole or in part, or computer data which is false, in such a manner likely to cause injury to the public but not constituting a crime of defamation under the Criminal Code;</p>
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RELEVANT CIVIL LAW PROVISION

Thailand's Civil and Commercial Code

'Civil defamation'	<p><u>Article 423</u>: A person who, contrary to the truth, asserts or circulates a fact that is injurious to the reputation or the credit of another or his[/her] earnings or prosperity in any other manner, shall compensate the other for any damage arising therefrom, even if he[/she] does not know of its untruth, provided he ought to know it.</p> <p>A person who makes a communication the untruth of which is unknown to him[/her], does not thereby render himself liable to make compensation, if he[/she] or the receiver of the communication has a rightful interest in it.</p>
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Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1,500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

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FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

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Created in 1985, the World Organisation Against Torture (OMCT) works for, with and through an international coalition of over 200 non-governmental organisations - the SOS-Torture Network - fighting torture, summary executions, enforced disappearances, arbitrary detentions, and all other cruel, inhuman and degrading treatment or punishment in the world and fighting for the protection of human rights defenders.

Assisting and supporting victims

OMCT supports victims of torture to obtain justice and reparation, including rehabilitation. This support takes the form of legal, medical and social emergency assistance, submitting complaints to regional and international human rights mechanisms and urgent interventions. OMCT pays particular attention to certain categories of victims, such as women and children.

Preventing torture and fighting against impunity

Together with its local partners, OMCT advocates for the effective implementation, on the ground, of international standards against torture. OMCT is also working for the optimal use of international human rights mechanisms, in particular the United Nations Committee Against Torture, so that it can become more effective.

Protecting human rights defenders

Often those who defend human rights and fight against torture are threatened. That is why OMCT places their protection at the heart of its mission, through alerts, activities of prevention, advocacy and awareness-raising as well as direct support.

Accompanying and strengthening organisations in the field

OMCT provides its members with the tools and services that enable them to carry out their work and strengthen their capacity and effectiveness in the fight against torture. OMCT presence in Tunisia is part of its commitment to supporting civil society in the process of transition to the rule of law and respect for the absolute prohibition of torture.

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Activities of the observatory

The Observatory is an action programme based on the belief that strengthened co-operation and solidarity among human rights defenders and their organisations will contribute to break the isolation they are faced with. It is also based on the absolute necessity to establish a systematic response from NGOs and the international community to the repression of which defenders are victims.

With this aim, the Observatory seeks to establish:

- A mechanism of systematic alert of the international community on cases of harassment and repression of defenders of human rights and fundamental freedoms, particularly when they require urgent intervention;
- The observation of judicial proceedings, and whenever necessary, direct legal assistance;
- International missions of investigation and solidarity;
- A personalised assistance as concrete as possible, including material support, with the aim of ensuring the security of the defenders victims of serious violations;
- The preparation, publication and world-wide dissemination of reports on violations of the rights and freedoms of individuals or organisations working for human rights around the world;
- Sustained action with the United Nations and more particularly the Special Rapporteur on Human Rights Defenders, and when necessary with geographic and thematic Special Rapporteurs and Working Groups;
- Sustained lobbying with various regional and international intergovernmental institutions, especially the Organisation of American States (OAS), the African Union (AU), the European Union (EU), the Organisation for Security and Co-operation in Europe (OSCE), the Council of Europe, the International Organisation of the Francophonie (OIF), the Commonwealth, the League of Arab States, the Association of Southeast Asian Nations (ASEAN) and the International Labour Organisation (ILO).

The Observatory's activities are based on consultation and co-operation with national, regional, and international non-governmental organisations.

With efficiency as its primary objective, the Observatory has adopted flexible criteria to examine the admissibility of cases that are communicated to it, based on the "operational definition" of human rights defenders adopted by FIDH and OMCT: "Each person victim or at risk of being the victim of reprisals, harassment or violations, due to his or her commitment, exercised individually or in association with others, in conformity with international instruments of protection of human rights, to the promotion and realisation of the rights recognised by the Universal Declaration of Human Rights and guaranteed by the different international instruments".

To ensure its activities of alert and mobilisation, the Observatory has established a system of communication devoted to defenders in danger. This system, called Emergency Line, can be reached through:

E-mail: Appeals@fidh-omct.org

FIDH Tel: + 33 1 43 55 25 18 Fax: + 33 1 43 55 18 80

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