

Network of Concerned Historians				NCH
Campaigns				
Year original	Year follow-up	Circular	Country	Name
2017		89	Thailand	Sulak Sivaraksa

### *Announcement*

On 27 October 2017, PEN International issued an appeal for 85-year-old Thai social critic, Buddhist scholar and writer of historical essays **Sulak Sivaraksa**. He was charged with *lèse majesté* (defamation of the monarchy) after he doubted the accuracy of facts regarding a battle in which Thai King Naresuan defeated the Burmese Crown Prince Mingyi Swa in 1593. If convicted on 7 December 2017, he could face 15 years' imprisonment.

In 1993 and 1994, Sulak Sivaraksa was nominated for the Nobel Peace Prize.

Below you will find a NCH profile of Sulak Sivaraksa, followed by PEN's case sheet. Please send the recommended appeal immediately. Please remember to write in your professional capacity. Many thanks.

With best wishes,

Antoon De Baets  
(Network of Concerned Historians)

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### **NCH PROFILE OF SULAK SIVARAKSA**

In December 1967, **Sulak Sivaraksa** (1932–), a social critic and lay Buddhist author who had studied humanities and law in England and Wales and edited the *Sangkomsaat Paritat* (Social Science Review), wrote an editorial commemorating the 200th anniversary of the destruction by the Burmese of Siam's capital Ayutthaya, which he partly attributed to the weak political leadership of Ayutthaya's last two kings. He also stated that in 1967 nobody was in firm control of the Thai ship of state any longer. He was accused of *lèse majesté* in the press but the government did neither arrest him nor confiscate the review. Although Sivaraksa was asked not to put the issue on sale publicly, it circulated widely.

In 1976, Sivaraksa's books were burned and he fled abroad from an arrest warrant during the coup,

after which he spent two years in exile, lecturing in North America and Europe.

In August 1984, Sivaraksa was arrested and his book *Interviews with Sulak Sivaraksa: Unmasking Thai Society* was confiscated and banned. Thousands of copies of the book were seized by the police. The arrest centered on an article about Thai education history in which he criticized the kings and princes of the last two centuries, educated abroad, for their ignorance of Thai conditions and Buddhist teaching and tradition. After a four-month public trial, the king intervened and the charge of *lèse majesté* was withdrawn (the first time ever that such a charge was withdrawn).

On 22 August 1991, Sivaraksa gave a speech at Thammasat University, entitled “Suppression of Democracy after the February Coup,” in which he questioned the legitimacy of the National Peace Keeping Council military government (which had seized power in February) – led by its vice-chairman General Suchinda Kraprayoon, chief army commander and prime minister – by discussing how it failed to pass the test of the four historical sources of legitimacy (nation, religion, king, and constitution). Ten days later, Suchinda ordered charges of *lèse majesté* and of defamation to be brought against Sivaraksa. According to Suchinda, Sivaraksa had also erroneously maintained that the king had been detained by the military when he returned to Thailand for his coronation in 1950. After the police director-general ordered Sivaraksa arrested dead or alive, the government declared that it could not guarantee his safety in prison. In [October 1991], Sivaraksa secretly escaped Thailand and went into self-imposed exile (for the second time) in Europe and North America, returning in December 1992 after the junta had been replaced by a civilian regime in May. He was arrested but freed on bail. Formally charged in March 1993, his trial continued intermittently from June 1993 until his acquittal in April 1995. The court held that there were many places in the talk where Sivaraksa had expressed loyalty to the monarchy. It said that those in power needed to listen to both praise and blame, and acknowledged the possibility that the *lèse majesté* law could be used by people in power to silence opposition.

On 2 October 2007, the Special Branch Police banned and confiscated copies of *Seventy-Five Years of Thai Democracy: A Thorn-Filled Path*, a book by Sivaraksa about politics, democracy, and the monarchy. The police alleged that the material might “cause unrest and degrade good morals” in Thai society.

On 20 October 2014, two retired lieutenant-generals filed a complaint for *lèse majesté* against Sivaraksa over remarks he had made at an academic seminar at Thammasat University entitled “Construction and Deconstruction of Thai History” on 12 October about Naresuan the Great (1555–1605), a king of the Ayutthaya kingdom (1590–1605) known for his campaigns to free Siam from Burmese invaders. He questioned the traditional account of Naresuan claiming sovereignty for the Ayutthaya kingdom by defeating Burmese Crown Prince Mingyi Swa while mounted atop an elephant during the Battle of Nong Sarai on 18 January 1593. “Is Naresuan really a hero as they claimed?” he reportedly asked, “Did any of us actually see King Naresuan engaging in the elephant duel and killing Mingyi Swa? And is killing Mingyi Swa such a noble thing to do? We never questioned these issues at all.” At the time of his speech, King Naresuan was the subject of an epic film promoted by the military junta. The date of the duel was chosen for the National Armed Forces Day. On 9 October 2017, Sivaraksa was summoned for an

interrogation before military prosecutors. If convicted at a hearing scheduled for 7 December 2017, Sivaraksa could be imprisoned for up to 15 years.

[In the 1970s], one source described Sivaraksa as a critic loyal to the views of historian Prince Damrong Rajanubhab (1862–1943), “the Father of Thai History,” a son of Rama IV and half-brother of King Chulalongkorn. Sivaraksa founded the International Network of Engaged Buddhists. In 1993 and 1994, he was a Nobel Peace Prize nominee. He organized the so-called Jungle University for fleeing Burmese students. In 1996 he was awarded the Right Livelihood Award, an alternative Nobel Peace Prize.

*Sources:* Amnesty International, *Report* (London) (1985), 248–249, (1992), 251, (1993), 282, (1994), 286, (1995), 283, (1996), 295, (2005), 250; Article 19, [\*State of Fear: Censorship in Burma \(Myanmar\)\*](#) (London: Article 19, 1991), 13; Human Rights Watch, *World Report 1999* (Washington: Human Rights Watch 1998), 213; *Index on Censorship* (1984 no. 6), 43, 48, (1985, no. 1), 65, (1985, no. 2), 36, (1985, no. 4), 4, (1991, no. 10), 56, (1993, no. 3), 40, (1995, no. 3), 187, (2008, no. 1), 209; Derek Jones, ed., *Censorship: A World Encyclopedia* (London: Fitzroy Dearborn, 2001), 1401–1402, 2403; Reporters without Borders, “*His Untouchable Majesty*”: *Thailand – Censorship and Imprisonment: The Abuses in the Name of Lèse Majesté* (Paris 2009), 10; Southeast Asian Press Alliance, *Ifex Alert* (4 October 2007); David Streckfuss, ed., *Modern Thai Monarchy and Cultural Politics: The Acquittal of Sulak Sivaraksa on the Charge of Lese Majeste in Siam 1995 and Its Consequences* (Bangkok: Santi Pracha Dhamma Institute, 1996), v–xii, 1–31, 37–41, 51–80, 97–108, 151–163; Mark Fenn, “Battle Royal,” *Index on Censorship* (43 no. 4) (Winter 2014), 24; Reuters, “[Thai Scholar Faces Royal Insult Charge over Mediaeval King](#),” (20 October 2014); Khaosod English, “[Lese Majeste Filed Against Historian For Questioning Ancient 'Elephant Battle'](#)” (17 October 2014); Pravit Rojanaphruk, “[112 Case Moves Forward against Historian For Doubting 16th Century 'Elephant Duel'](#)” (6 October 2017); PEN International, “[Thailand: Octogenarian Writer and Activist Faces 15-year Prison Sentence](#),” (27 October 2017).

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<http://www.pen-international.org/newsitems/thailand-octogenarian-writer-and-activist-faces-15-year-prison-sentence/>

**THAILAND:**

**OCTOGENARIAN WRITER AND ACTIVIST FACES 15-YEAR PRISON SENTENCE**



Writer Sulak Sivaraksa

**27 October 2017 – RAN 20/17**

**PEN International is deeply concerned by reports that renowned writer and activist Sulak Sivaraksa is facing trial for violating article 112 of the Thai Criminal Code (lèse majesté) in a connection with a speech he gave at Thammasat University in 2014. PEN International believes that the charges against Sivaraksa are directly linked to his peaceful exercise of his right to freedom of expression and calls for the charges against him to be dropped immediately and unconditionally. Take action!**

**PLEASE SEND APPEALS:**

- Calling for the charges against writer and activist Sulak Sivaraksa to be dropped immediately and unconditionally;
- Urging the authorities to amend the Criminal Code to ensure that it meets Thailand's international legal obligations to protect freedom of expression, including by decriminalising lèse majesté (article 112 of the Criminal Code) and defamation and insult (articles 326-333 of the Criminal Code);
- Urging the authorities not to subject civilians to military court proceedings.

## **APPEALS TO:**

### Prime Minister

\*\*General Prayut Chan-o-cha  
\*\*Royal Thai Government  
\*\*Government House  
\*\*1 Pitsanulok Road,  
\*\*Dusit, Bangkok 10300, Thailand  
\*\*Fax: +66 (0) 2282 5131  
\*\*E-mail: prforeign@gmail.com  
Salutation: Dear Prime Minister

### Minister of Justice

\*\*Suwaphan Tanyuwardhana  
\*\*Government Centre Building A  
\*\*120 Moo 3  
\*\*Chaeng Wattana Road Soi 7, Lak Si  
\*\*Bangkok 10210, Thailand  
\*\*Fax: +66 29530503  
Salutation: Dear Minister

## **COPIES TO:**

### Minister of Foreign Affairs

\*\*Mr. Don Pramudwinai  
\*\*Minister of Foreign Affairs of the Kingdom of Thailand,  
\*\*Ministry of Foreign Affairs,  
\*\*443 Sriyudhya Road,  
\*\*Thung Phaya Thai Sub-district,  
\*\*Ratchathewi, Bangkok, 10400  
\*\*Fax: 0-2643-5320; 0-2643-5314  
\*\*Email: minister@mfa.go.th  
Salutation: Dear Minister

Please also send copies of your appeals to the Thai Embassy in your country. Contact details for embassies can be [found here](#).

*\*\*\*Please contact NCH if sending appeals after 7 December 2017. Please send us copies of your letters or information about other activities and of any responses received.\*\*\**

## **PUBLICITY**

PEN members are encouraged to publish articles and opinion pieces in national or local press highlighting the case of Sulak Sivaraksa and the situation of freedom of expression in Thailand.

## **BACKGROUND**

Sulak Sivaraksa, aged 85, is a well-known social critic and the author of at least 100 books and monographs published in Thai and English addressing Thai society and culture, including *Conflict, Culture, Change: Engaged Buddhism in a Globalising World*; *Seeds of Peace: Buddhist Vision for Renewing Society*; *Loyalty Demands Dissent: Autobiography of an Engaged Buddhist*, among other titles. A proponent of ‘engaged Buddhism,’ which ‘integrates the practice of Buddhism with social action for a healthy, just, and peaceful world,’ according to the [International Network of Engaged Buddhists](#) – an organisation which he co-founded in 1989 – Sivaraksa has founded many civil society organisations and cultural initiatives. Sivaraksa has reportedly twice been nominated for the Nobel Peace Prize (1993 and 1994), and is the recipient of the [1995 Right Livelihood Award](#), as well as the [2011 Niwano Peace Prize](#), awarded to those who promote peace through interreligious cooperation. He has twice fled the country to live in self-imposed exile (first in 1976-1977 and later in 1991-1992). According to media reports, Sivaraksa sees dissent as an essential part of his loyalty to his nation. On 9 October 2017, Sivaraksa was reportedly taken before a military tribunal and informed that an almost three-year investigation into allegations of lèse majesté had been concluded. He was reportedly released the same day and told that military prosecutors would decide on whether to proceed with the case at a hearing on 7 December 2017. Should the case against him proceed, Sivaraksa could face up to 15 years in prison.

The charges reportedly relate to a speech that Sivaraksa delivered in October 2014 at an academic discussion held at Thammasat University in which he questioned whether a 16<sup>th</sup> Century elephant battle between the Thai King Naresuan and the Burmese Crown Prince Mingyi Swa had actually occurred. At the time of his speech, King Naresuan was the subject of an epic film being promoted by the military junta. Sivaraksa [reportedly urged the audience](#) “not to easily believe in things. Otherwise they will fall prey to propaganda.” The charges against Sivaraksa were initially filed on 16 October 2014 by two lieutenant generals. King Naresuan is regarded as a national hero by the Thai military; indeed, the National Armed Forces day marks the date of the battle.

Sivaraksa has faced charges of lèse majesté on several occasions previously in relation to his speeches and writings. In each case, he was either acquitted or the charges were dropped, according to [Thai Political Prisoners](#). The current charges against Sivaraksa are particularly unreasonable as they do not relate to the ruling monarch, but that of a monarch who reigned from 1590-1605.

Thailand's lèse majesté laws which are among the strictest insult laws in the world have remained unchanged since 1908. Article 112 of Thailand's Criminal Code states that "whoever defames, insults or threatens the King, the Queen, the Heir to the throne or the Regent shall be punished with imprisonment of three to 15 years."

PEN International urges the authorities to amend the Criminal Code, in particular the lèse-majesté law and the articles that criminalise defamation and insult, to ensure that it meets Thailand's international obligations to protect freedom of expression. UN human rights mechanisms have repeatedly clarified that criminal defamation and insult laws, including lèse-majesté laws, are incompatible with international standards on free expression. In 2011, the then UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression Frank La Rue called on Thailand to reform its lèse-majesté laws. He said, "The threat of a long prison sentence and vagueness of what kinds of expression constitute defamation, insult, or threat to the monarchy, encourage self-censorship and stifle important debates on matters of public interest, thus putting in jeopardy the right to freedom of opinion and expression." They are also not in line with Articles 9 and 19 of the International Covenant on Civil and Political Rights (ICCPR), to which Thailand is a state party.