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## Q&A: Criminal and Civil Prosecutions - Natural Fruit vs. Andy Hall

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### **1. What are all the prosecutions about?**

Migrant rights defender and researcher Andy Hall worked as a research coordinator for a Finnish NGO Finnwatch in 2012. With assistance from a team of translators and fixers, Hall conducted worker interviews in Thailand. Finnwatch published the interview findings in a report *Cheap Has a High Price* in January 2013<sup>1</sup>.

Based on information provided by migrant workers from Myanmar, the report alleged serious human rights violations in the Natural Fruit Company Ltd. factory in Prachuap Khiri Khan province in Southern Thailand. Natural Fruit reacted to the report by pressing multiple criminal and civil charges against Andy Hall, a private person, and not Finnwatch as the organisation that authored and bears responsibility for the report.

In prosecution documents, Natural Fruit for example cited the presence of Andy Hall's name alongside others on the front page of an English Executive Summary of the report, as important evidence of Hall's authorship and responsibility for the report. The company also cited an interview Hall gave to Al Jazeera in Myanmar in response to his original prosecution as being defamatory. Natural Fruit also alleged Hall's involvement in uploading on to Finnwatch website a confidential communication regarding the Finnwatch report. This communication was an attachment to an email that Finnwatch sent in December 2012 to Thai authorities and human rights organisations regarding the key findings of the report. The report in question was authored only by Finnwatch and Andy Hall has no administrative access to Finnwatch website, where the report was uploaded. The confidential communication has never been published on [www.finnwatch.org](http://www.finnwatch.org).

As outlined below in more detail, Natural Fruit has filed two cases against Andy Hall under criminal defamation provisions in Thailand's Criminal Code as well as two civil defamation cases. One of the criminal defamation cases also includes allegations under the Computer Crimes Act. Natural Fruit also filed a 50 million baht damages claim against Hall and two of his defense lawyers in relation to a counter prosecution Hall filed against the company that was dismissed in 2018. This latest case prosecuted by Natural Fruit was dismissed in December 2019. These high-profile cases have been widely considered internationally as a regretful example of judicial harassment by companies and governments across the world in an attempt to silence human rights defenders (see Question 8 for more details).

### **2. Who is Natural Fruit? Who is its owner?**

At the time when the Finnwatch report *Cheap Has a High Price* was being prepared, Natural Fruit Company Ltd. was a company that produced pineapple products and was part of Nat Group. Other companies belonging to the group were Prafic and Prafic 2005, which produced dried fruits and aloe vera products. In 2012, Natural Fruit supplied juice concentrate for Finnish retailers S Group, Kesko and Tuko Logistics private label juices (produced by Finnish VIP-Juicemaker Oy).

The owner of Natural Fruit Mr. Wirat Piyapornpaiboon is the elder brother of Thailand's current agriculture and cooperatives minister and general secretary of the Democratic Party Chalermpchai Sri-On. Sri-On is also a senator

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<sup>1</sup> The Executive Summary of the report *Cheap Has a High Price* is available in English at [http://www.finnwatch.org/images/cheap%20has%20a%20high%20price\\_exec%20summary\\_final.pdf](http://www.finnwatch.org/images/cheap%20has%20a%20high%20price_exec%20summary_final.pdf)

from Prachuap Khiri Khan province, and Thailand's former labour minister. Wirat Piyapornpaiboon has had many other businesses in addition to those that were part of Nat Group including Siam Aloe Vera Co. Ltd., a company that manufactures and exports canned aloe vera.

Wirat Piyapornpaiboon is an important actor in Thailand's pineapple industry as he is the President of the Thai Pineapple Industry Association (TPIA). TPIA represents over 60 pineapple companies in Thailand.

### **3. Who is Andy Hall? What is Finnwatch?**

Andy Hall is a 40-year-old British national who lived in Thailand for 11 years before leaving the country in November 2016.<sup>2</sup> Hall is trained in law and has been a researcher on migration issues in Southeast Asia.

Hall left Thailand in 2016 after being prosecuted on new criminal defamation and Computer Crimes Act charges<sup>3</sup> in a case brought by poultry company Thammakaset Company Ltd., a company that was at that time utilising the same legal team as Natural Fruit Company Ltd. Hall has since 2016 been living in Europe and in Nepal where he continues his work on migrant worker rights within South and South East Asia.

During 2013, prior to the launch of criminal proceedings against Hall and the accompanying confiscation of his passport that limited his freedom of movement, Hall was a resident of Myanmar advising the Myanmar Government on migration issues through an EU funded project and he lived in Yangon and Naypyidaw.

In 2012, Finnwatch hired Andy Hall as a consultant researcher to coordinate field research in Thailand for a project on social responsibility of private label products of Finnish supermarket chains. It was in this capacity that Hall interviewed workers at Natural Fruit factory, with assistance from translators and fixers.

Finnwatch is a Finnish corporate social responsibility watchdog organisation backed by a number of Finnish development aid organisations, trade unions and consumer rights' groups. The project on social responsibility of private label products was part of the Finnwatch Decent Work Research Programme.

### **4. What is the current state of play with the four cases brought by Natural Fruit against Andy Hall?**

#### **a) Criminal Defamation Case – Al Jazeera Interview – Case Closed, and Hall's Counter Prosecutions**

The first of the four cases to reach a trial stage was a criminal defamation case which dealt with an interview Andy Hall gave to Al Jazeera English news station in Yangon, Myanmar, in April 2013. The interview was about the other two cases brought by Natural Fruit against Andy Hall earlier that year as an immediate response to the publication of the Finnwatch report (see below cases (b) and (c)). According to Natural Fruit, during the interview Andy Hall intentionally harmed the reputation of the company by speaking and/or publishing false information. The case charges carried a maximum penalty of 1-year imprisonment.

The trial was held from 2nd to 10th September 2014 at Prakanong Court, Bangkok. On 29th October 2014, the Court delivered a verdict dismissing the charges on the grounds that the prosecutor failed to participate in the investigation process as ordered by the Office of the Attorney General. The Court subsequently returned to Andy Hall his British passport which had been confiscated as a condition for bail once he was formally prosecuted for the case in May 2014 and limited his freedom of movement from Thailand.

Thailand's Office of the Attorney General and Natural Fruit appealed the legality of the dismissal to the Appeals Court in January 2015. The Appeals Court's decision was given on 18th September 2015. The Appeals Court dismissed the appeal on the grounds of flawed unlawful interrogation processes during police investigation of the case and given the allegedly defamatory act was undertaken in Myanmar. Natural Fruit and the Office of the Attorney General however continued to find means to appeal the case further.

According to the Thai Criminal Procedure Code, a twice dismissed case can be appealed to the Supreme Court on the permission of either the Office of the Attorney General or the Court of First Instance. In this case, the request to appeal to the Supreme Court was made to the Office of the Attorney General, the same person who was prosecuting Hall. The permission to appeal was granted at the end of 2015, and both the Office of the Attorney General and Natural Fruit submitted appeals on the case to Thailand's Supreme Court in January 2016.

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<sup>2</sup> Andy Hall, Public Statement on Leaving Thailand: 7th November 2016, available at <https://www.facebook.com/andy.hall.3110/posts/10154096321870677>

<sup>3</sup> See <https://www.business-humanrights.org/en/betagro-thammakaset-lawsuit-re-labour-exploitation-in-thailand> for more information on these new charges

On 3rd November 2016, the Supreme Court delivered its decision on the appeal, dismissing the case. In a statement issued immediately following the Supreme Court's ruling, Andy Hall said that: *'Following dismissal of the case, I have no choice but to now plan for the launch of counter litigation against Natural Fruit, the Prosecutor, Police and the Office of the Attorney General for unlawful prosecution and for perjury. I do so with deep regret and not at all in anger or through any desire for personal retribution. It is necessary to launch these counter prosecutions simply because I must defend myself fully against judicial harassment by Natural Fruit that shows no signs of abating.'*

These counter criminal litigations against Thailand's Office of the Attorney General, nine Thai state prosecution officials and one senior police officer and against Natural Fruit Company Ltd, a board member with legal authority to act on behalf of the company, a senior company management official and the company's lawyer, were filed on 31st May 2017 by Hall's legal team who has full power of attorney assigned to them by Hall. The litigation against state officials was filed at the Central Criminal Court for Corruption and Misconduct Cases in Dusit District of Bangkok whilst the litigation regarding to Natural was filed at Prakanong Court in Prakanong District of Bangkok.

Andy Hall's legal team received a judgement from the Central Criminal Court for Corruption in October 2017, dismissing the case against state prosecution officials and the police officer as being groundless, despite the Supreme Court ruling the case against Andy Hall to have been unlawful. In January 2018, Andy Hall's legal team appealed the Central Criminal Court for Corruption Misconduct Cases' dismissal decision but this appeal was dismissed as final in early 2019 and an appeal to the Supreme Court was not undertaken.

The Prakanong Court in September 2017 dismissed cases against a Natural Fruit lawyer and some of the charges against some of the company's officials but a case and several charges filed against two Natural Fruit executives was accepted for a full criminal trial. The charges in this accepted case relate to intentionally reporting false information to the police and intentionally launching a false prosecution. Both executives pleaded not guilty and were released from detention temporarily on bail pending the trial.

The trial of the two Natural Fruit executives commenced on 22nd March 2018 and ended on 28th March 2018. The Prakanong Court read the verdict on the case on 15th May 2018, dismissing charges against the two Natural Fruit executives and stating that the defendants had simply acted in good faith in launching their prosecutions against Hall. Andy Hall's legal team appealed this case dismissal to the Appeals Court on 2nd July 2018 but the Appeals Court upheld the lower court's dismissal verdict as final and an appeal to the Supreme Court was not undertaken.

Natural Fruit more recently in late 2018 filed a 50 million baht damages claim against Hall and two of his defense lawyers in relation to the counter prosecution Hall filed against the company and its lawyers that was dismissed twice in 2018. This latest case proceeded to trial in November 2019 at Prakanong Court, but Hall was removed as a defendant in the case due to his absence from Thailand. On 24th December 2019, the Court dismissed the case against the two defense lawyers ruling that in supporting Hall in the launch of counter prosecutions, the lawyers had merely exercised their functions according to the general duty of lawyers to work to support their clients. Natural Fruit is currently requesting an extension of time to file an appeal against this dismissal ruling.

#### b) Criminal Defamation and Computer Crimes Case – Finnwatch Report

After seven preliminary hearings held between 17th November 2014 and 20th July 2015, the Bangkok South Criminal Court on 24th August 2015 decided to proceed to a criminal trial with the original criminal defamation and computer crimes prosecutions brought by Natural Fruit Company Ltd. against Andy Hall in February 2013. These prosecutions related to the publication of the Finnwatch report *Cheap Has a High Price*. The charges carried a combined maximum penalty of 7 years' imprisonment.

Andy Hall was formally indicted for these prosecutions in a hearing at Bangkok South Criminal Court on 18th January 2016. Andy Hall attended the hearing and pleaded 'not guilty' to all charges. Following the indictment hearing, Andy Hall's passport was again confiscated and he was barred from leaving Thailand without first getting prior permission from the Court – which he was able to obtain several times but which limited his freedom of movement. The fact that he promptly returned to Thailand and surrendered his passport after each trip overseas continued to show that at that stage he was not at flight risk.

During the preliminary hearings in this prosecution, Natural Fruit was able to produce its own witnesses to the Court to try to convince the Court to proceed with the case to a trial whereas the defence only had the opportunity to cross examine prosecution witnesses. Andy Hall was not in attendance at the preliminary hearings but was represented through lawyers who cross-examined the prosecution witnesses on his behalf.

The full criminal trial in this most serious of all four cases against Andy Hall then commenced on 19th May 2016 with three days of prosecution witness hearings. The prosecution witnesses during the trial included Natural Fruit factory management, owners, migrant workers, academics and other concerned parties – like already during the preliminary hearing. Then, over the summer months of June and July 2016, the total number of defence and prosecution witnesses heard in the case eventually reached 24, including Andy Hall himself.

Andy Hall's testimony to the Court in early June 2016 lasted three days. Other defence witnesses included Finnwatch Executive Director Sonja Finér (then Vartiala), who in July 2016 told the Court that Finnwatch was solely responsible for analysing, writing and publishing online the report *Cheap Has a High Price*.

The Vice President of the Finnish retailer S Group, Jari Simolin, was also invited to give testimony. In his testimony, Simolin told the Court how Natural Fruit's refusal to allow independent, international social responsibility audits to its processing plant was the reason why S Group put purchases from Natural Fruit on hold in 2013, and not the publication of the Finnwatch report. The S Group has said that they took a stance on this case as civil society organisations produce information which is highly relevant to companies and the work that activists do increases transparency in supply chains and should not be punished.

Three former Natural Fruit employees, all migrant workers from Myanmar, also testified in defense of Andy Hall. One of the workers alleged being threatened in a courthouse toilet by Wirat Piyapornpaiboon, owner of Natural Fruit, immediately following his testimony. The Court immediately convened a hearing to establish facts concerning this serious allegation but no further action was taken.

Other defence witnesses during the criminal trial included, most importantly: Dr. Darian McBain, Sustainable Development Director at one of the world's largest tuna and seafood producers, the Thai Union Group; Dr. Chanintr Chalissarapong, Unicord Public Company Ltd. Advisor and Thai Tuna Industry Association (TTIA) President; Mr. Somneuk Chotiwattanaphan, CEO of tuna company Chotiwat Manufacturing Co Ltd; and Mrs. Attapan Masrangsang, Advisor to Thai Union and General Secretary of the TTIA. The 2013 Finnwatch report *Cheap Has a High Price* also exposed serious human rights violations at Thai Union and Unicord. Unlike Natural Fruit, Thai Union and Unicord since the publication of the report engaged in extensive dialogue with migrant workers' organisations and took prompt corrective action. Finnwatch has published two follow-up reports detailing these improvements and remaining or ongoing challenges concerning migrant worker management issues at Thai Union and Unicord.

Both parties to the case submitted closing statements to the Court following the close of witness testimony on 26th August 2016. The Bangkok South Criminal Court then issued its verdict in this case on 20th September 2016, finding Andy Hall guilty of all charges levelled against him. He was subsequently sentenced to four years' imprisonment, reduced by one year and suspended by two years and ordered to pay a fine of 200 000 baht, reduced to 150 000 baht. Once the fine was paid to the Court immediately by Thai Union Group, the Thai Tuna Industry Association (TTIA) and Finnwatch, Andy Hall was released from temporary detention, his passport returned and restrictions on his freedom of movement removed. Andy Hall's legal team submitted an appeal against his conviction in this case on 8th February 2017. Natural Fruit also previously appealed the verdict in December 2016 seeking an immediate custodial sentence against Hall.

The ruling by the Appeals Court in this case was originally scheduled for 24th April 2018 but the hearing on the appeal was instead adjourned until 31st May 2018 given Hall did not attend the court in person. Andy Hall attests that he was not formally summonsed to attend the court through any official channels. Instead of reading the verdict, the Bangkok South Criminal Court ordered for the issuance of an arrest warrant for Andy Hall with a view to ensuring Hall's attendance in the court to hear a verdict of the Appeals Court. Following this, Hall's UK legal defence team submitted a pre-emptive submission to Interpol requesting it not respond affirmatively on human rights ground to any Thai request to arrest Hall concerning this case. Hall left Thailand at the end of 2016, making clear publicly his intention not to return unless unjust judicial harassment against him ceased and business and government support for his work became evident.

Bangkok South Criminal Court on 31st May 2018 read the verdict of the Appeals Court ruling in favour of Andy Hall. According to Andy Hall's legal team and civil society and diplomatic observers at the Court, the Appeals Court accepted all of the points made in Hall's appeal in their entirety. The Appeals Court ruled that Hall had not acted unlawfully according to the prosecution's accusations and promptly pronounced him acquitted of all the charges filed against him. The Court also ruled further that, based on all the evidence before it, Hall had indeed interviewed migrant workers from Natural Fruit's factory and there was the real possibility of labour rights violations against migrant workers in the factory, as Finnwatch had alleged in a 2013 report.

In this landmark ruling, the Appeals Court also importantly ruled that Finnwatch and Andy Hall's research was in the public interest for the benefit of consumers. In addition, the Court noted importantly that given the Thai Government's 2017 amendments to Thailand's notorious Computer Crimes Act, the computer crimes law retrospectively could not be used to prosecute Andy Hall alongside a criminal defamation prosecution. The Appeals Court's decision was appealed to Thailand's Supreme Court by Natural Fruit. Reading of the final verdict in the case was initially scheduled for 10th March 2020 but later postponed until 30th June 2020.

#### c) Civil Defamation and Damages Case – Finnwatch Report

A 300 million baht damages claim against Andy Hall was filed by Natural Fruit following the publication of the Finnwatch report in a case linked to the Bangkok South Criminal Court prosecution. Negotiations between the two parties failed on 30th October 2014 following which the Nakhon Pathom Court postponed consideration of this case until a final verdict in the criminal defamation and computer crimes case (see case b above), which also concerns the Finnwatch report, is reached. Consideration of this case has yet to recommence given the Supreme Court has yet to issue a final judgement in the Bangkok South Criminal Court prosecution acquittal of Hall.

#### d) Civil Defamation and Damages Case – Al Jazeera Interview

Natural Fruit also filed a 100 million baht damages claim against Andy Hall, related to the Al Jazeera interview which he gave in Yangon, Myanmar (case a). The first hearing on this case took place on 21st November 2014 in Prakanong Court and Andy Hall submitted his defence. Further hearings followed in May/November 2015 and January/April 2016 when consideration of the case was postponed pending the Supreme Court's verdict on the criminal case (a).

Following the Supreme Court's dismissal of the criminal case (a), consideration of this case was to commence but the Prakanong Court then dismissed the case on the basis of jurisdiction of the court to legally try the case given that the alleged defamatory comments were made overseas and the defendant Andy Hall had a residence that was not within the jurisdiction of the Court.

Natural Fruit appealed the dismissal of this case by the Prakanong Court to the Appeals Court which on 22nd August 2017 ruled that Prakanong Court had jurisdiction over the case and ordered the Court to begin to hear the case in full from 29th August 2017. The hearing of witnesses for this case concluded in February 2018. Both the prosecution and the defence only re-submitted previous witness testimony and called just three witnesses between them to introduce this previous testimony into the case file.

On 26th March 2018, the Prakanong Court read its verdict on the case, ordering Andy Hall to pay 10 million baht in damages to Natural Fruit, including an interest of 7.5% from the date of filing the case until the amount is fully paid. The Court additionally ordered Hall to pay 10 000 baht towards Natural Fruit's lawyer and court fees.

Following this conviction, Andy Hall instructed his legal team to appeal the ruling. Freedom Fund organisation and the Finnish grocery group S Group provided the funds required to allow Andy Hall to submit this appeal. Thai Court regulations meant that in order to appeal this particular civil conviction to the Appeals Court, Hall needed in advance of the appeal submission to place a deposit at the court of 422 359 baht. The appeal was submitted on 6th September 2018 and the Appeals Court delivered its verdict on the case on 22nd May 2019, once again upholding Hall's conviction.

Hall instructed his legal team to again appeal this conviction for a final time to Thailand's Supreme Court, and this appeal was submitted on 19th September 2019. Finnwatch and the Human Rights and Development Foundation (Thailand) provided the funds (both court and lawyers costs) required to allow Andy Hall to submit this appeal. Thai Court regulations meant that in order to appeal this particular civil conviction to the Supreme Court, Hall needed in advance of the appeal submission to place a deposit at the court of 200 000 baht. A ruling on leave to appeal to the Supreme Court in this case will be issued on 14th July 2020.

### **5. Are the Finnwatch findings about Natural Fruit false?**

The report *Cheap Has a High Price*, published in 2013, is based on interviews with Natural Fruit factory workers. In line with Finnwatch's Ethical Guidelines for research<sup>4</sup>, Natural Fruit was contacted several times during the investigation process by email, telephone and fax but the company did not reply and discuss the interview findings with Finnwatch prior to the report's publication. Also in line with Finnwatch's Ethical Guidelines, Natural Fruit could have issued its response to the report on Finnwatch's website after it was published, but it never asked to do so.

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<sup>4</sup> Finnwatch's Ethical Guidelines are available at <http://www.finnwatch.org/en/what-we-do/ethical-guidelines>

Finnwatch is not the only organisation that has investigated the working conditions in Natural Fruit. An award winning Finnish reporter Hanna Nikkanen independently interviewed Natural Fruit's former factory workers and Finnish magazine *Apu* published Nikkanen's article on the same day with the Finnwatch report in 2013. Al Jazeera has also interviewed a worker who alleged they had escaped from Natural Fruit. Also in November 2015, a Finnish broadcaster Yle produced a documentary on Andy Hall's prosecutions for which they too interviewed former Natural Fruit workers. Natural Fruit refused to give an interview to Yle.

In February 2013 after the release of the Finnwatch report, and some three months after Finnwatch's field research was complete and the findings had been shared with the Thai authorities and Natural Fruit Company Ltd., Thai labour authorities conducted an inspection in the Natural Fruit factory. The inspection report, referred to widely during Andy Hall's criminal trials, found several deficiencies in the factory including illegal deductions from salaries, illegally long overtime hours, deficiencies in sanitation rooms and restriction of toilet visits. However, to date no one has been prosecuted for these alleged rights violations.

In 2014, Finnwatch published a follow-up report on working conditions in Natural Fruit. According to the report, there were still labour rights issues in the factory. Due to the ongoing court proceedings, Andy Hall did not take part in this particular research project. Natural Fruit commented on the follow up report briefly by denying all alleged illegalities.

## **6. Are the accusations of Natural Fruit true?**

Natural Fruit is accusing Andy Hall of intentionally harming Natural Fruit and for causing financial loss.

During his criminal trials, Andy Hall brought evidence to the Court to show he had no personal interest or intention to harm Natural Fruit. Hall, as an independent researcher, had never met the owners or management of Natural Fruit and had never been in any contact or conflict with the factory before conducting the field study for Finnwatch. Finnwatch and S Group testified to the Court that Finnwatch got the name and address of Natural Fruit from the Finnish retailer S Group as one of their suppliers when initiating the investigation on the social responsibility of randomly chosen private label products sold in supermarkets in Finland.

Evidence was also brought to Court by Andy Hall to show that if Natural Fruit had suffered financial loss it was because of Natural Fruit's own actions. The first recommendation in the *Cheap Has a High Price* report urged companies to continue trading with Natural Fruit whilst using their leverage to work towards improvements in working conditions there. Finnish retailer S Group visited Thailand in 2013 and met with Natural Fruit. During the visit, outlined to the Bangkok South Criminal Court in July 2016, S Group requested Natural Fruit to agree to a third party social responsibility audit but Natural Fruit refused. An Israeli company Prodalim also informed Finnwatch that it stopped buying from Natural Fruit as Natural Fruit didn't agree to a third-party audit.

As noted above (see Question 4 (b) for more details), the Appeals Court in May 2018 also ruled that based on all the evidence before it, there was the real possibility of labour rights violations against migrant workers in the Natural Fruit factory, as Finnwatch had alleged in a 2013 report, and that the contents of the report did not constitute defamation. The Court pointed out in its ruling that during the trial, Natural Fruit had not provided any evidence to prove Finnwatch's allegations as incorrect; on the contrary, some of the testimonies of Natural Fruit's own witnesses spoke to illegal conduct at Natural Fruit's factory. The Appeals Court also importantly ruled that Finnwatch and Andy Hall's research had been in good faith and in public interest for the benefit of consumers.<sup>5</sup>

## **7. Have the proceedings against Andy Hall been in accordance with fair trial principles?**

The already concluded initial trial in September 2014 on criminal defamation charges related to the Al Jazeera interview was riddled with problems during the investigation stage, so much so that the Court ended up dismissing the case on the grounds of an unlawful investigation and prosecution. In addition to the investigation problems<sup>6</sup>, the defence was not given sufficient time to prepare its case at trial as some of the documents that the Court had asked from the Thai government were not provided in time with many documents summonsed never appearing at all. During the trial hearing itself, proceedings were once halted due to translation challenges and many of the Court documents were only provided in Thai language with inadequate time for translation for Andy Hall's proper and sufficient understanding. A defence witness, a former Natural Fruit factory employee and a migrant worker,

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<sup>5</sup> Unofficial translation into English of the Appeals Court's ruling is available at <https://andyjhall.files.wordpress.com/2018/06/nf-judgement-english-translation-final.pdf>

<sup>6</sup> For more information please see International Centre for Trade Unions Rights, Independent Trial Observer Report, available at <http://www.ictur.org/pdf/Plunkett.pdf>

officially reported harassment following his testimony and the Ministry of Justice investigated allegations of threats against him.

Global trade unions mandated the International Centre for Trade Union Rights ICTUR to observe Hall's first criminal trial in September 2014. The ICTUR trial observer and lawyer Mark Plunkett concluded in his report that Andy Hall had a complete defence to the charges and deserved to be acquitted on merits. The report also concluded that the laws that allowed for Hall's prosecution in the first place were unfair. In this case, the Thai Courts had no jurisdiction as the Al Jazeera interview was given in another country and not in Thailand.<sup>7</sup>

During Andy Hall's trial from May to July 2016, challenges concerning adequacy and capability of translators both for Hall and defense witnesses arose frequently. Two non-Thai witnesses had their testimony cancelled on their planned day of testimony as a translator was incapable of translating the content of their testimony for the Court hearing to proceed. Scheduling challenges didn't allow these two witnesses to return to Court to give testimony at a later date. Also, overseas witnesses did not at times have their testimony translated adequately and likewise Hall himself found the translators assigned to him at times unable to adequately communicate in English language.

Furthermore, the provisions in Thailand's Criminal Code that allow for deprivation of liberty as punishment for defamation have been criticised internationally as they restrict freedom of speech. Independent UN experts and the International Commission of Jurists (ICJ), as well as Lawyers Rights Watch Canada (LRWC) have expressed concern that the criminal charges against Andy Hall may be the result of his legitimate and peaceful actions as a human rights defender and have a chilling effect on other human rights defenders and activists working in Thailand and elsewhere to expose human rights violations perpetrated by non-State actors, including companies.<sup>8</sup>

#### **8. What kind of reactions have the charges against Hall raised in Finland and internationally?**

Finnwatch considers the court cases raised against Andy Hall harassment of a human rights defender. The increasingly high profile cases against Hall have raised international attention and the trials have been criticised widely by international organisations and labour rights associations.

More than one hundred human rights organisations and trade unions globally have expressed their support for Andy Hall.<sup>9</sup> Online petitions on Andy Hall's behalf by Walk Free and Sum Of Us have attracted 100,000s of signatures.<sup>10</sup> United Nordic, Business and Social Compliance Initiative (Amfori BSCI)<sup>11</sup> and the Ethical Trading Initiative (ETI)<sup>12</sup> have called on the Thai food industry and Natural Fruit Company Ltd. to ensure the withdrawal of all charges against Andy Hall. The United Nations Office of the High Commission for Human Rights OHCHR has demanded twice for an investigation on the prosecution issues.<sup>13</sup>

The governments of the UK, Finland, Denmark, Austria, Sweden, the Netherlands and Germany among others have sent observers to court hearings concerning Andy Hall's case. The EU Delegation to Thailand has issued a statement in his support and attended all court hearings. The case was also debated during an European Parliament hearing on Thailand in Brussels<sup>14</sup> and several members of the European Parliament have shown their

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<sup>7</sup> For more information please see International Centre for Trade Unions Rights, Independent Trial Observer Report, available at <http://www.ictur.org/pdf/Plunkett.pdf>

<sup>8</sup> For more information please see Special Procedures of the Human Rights Council, available at [http://burmacampaign.org.uk/media/public\\_-\\_AL\\_Thailand\\_26.04.13\\_4.2013.pdf](http://burmacampaign.org.uk/media/public_-_AL_Thailand_26.04.13_4.2013.pdf) and ICJ, Thailand: Amicus in criminal defamation proceedings against human rights defender Andy Hall at <http://www.icj.org/thailand-amicus-in-criminal-defamation-proceedings-against-human-rights-defender-andy-hall/>

<sup>9</sup> For recent examples, see Human Rights Watch, 19 July 2015, Thailand: End Case Against Migrant Worker Activist Andy Hall, available at <https://www.hrw.org/news/2015/07/19/thailand-end-case-against-migrant-worker-activist>; Coalition of 44 NGOs, 19 August 2015, Letter to Thai Prime Minister Prayuth Chan-ocha regarding prosecution of Andy Hall, available at <http://www.laborrights.org/publications/letter-thai-prime-minister-prayuth-chan-ocha-regarding-prosecution-andy-hall>

<sup>10</sup> Walk Free, Drop the Charges Against Andy Hall Now (petition), available at <https://www.walkfree.org/drop-the-charges-against-andy-hall-now/>

<sup>11</sup> BSCI, BSCI and its Participants Take Action in Support of Andy Hall, available at <http://www.bsci-intl.org/news/bsci-and-its-participants-take-action-support-andy-hall>

<sup>12</sup> Ethical Trading Initiative, 29 August 2014, Calling on Thai pineapple industry to drop charges against Hall, available at <http://www.ethicaltrade.org/blog/calling-thai-pineapple-industry-drop-charges-against-hall>

<sup>13</sup> See at [http://burmacampaign.org.uk/media/public\\_-\\_AL\\_Thailand\\_26.04.13\\_4.2013.pdf](http://burmacampaign.org.uk/media/public_-_AL_Thailand_26.04.13_4.2013.pdf) and <http://www.andyhall.wordpress.com/2016/02/29/5-un-human-rights-mandates-at-ohchr-geneva-and-thai-government-engage-allegation-response-natural-fruit-vs-andy-hall-saga/>

<sup>14</sup> Local EU Statement on the increasing misuse of criminal defamation laws in Thailand, 14 November 2014, available at

full support to Andy Hall.

The surprise guilty verdict in Andy Hall's criminal defamation case on 20th September 2016 also drew criticism from around the world including most importantly from the UN Office for the High Commissioner on Human Rights<sup>15</sup>, the International Labour Organisation<sup>16</sup>, the European Parliament and European Trade Commissioner Cecilia Malmström.<sup>17</sup> In response to Hall's conviction, on International Human Rights Day on 10<sup>th</sup> December 2016 over 110 companies, members of the European Parliament, trade unions and NGOs sent a letter to Thai Prime Minister General Prayut Chan-o-cha expressing concern on this conviction. The letter also urged the Thai authorities to ensure that rights of migrant workers and human rights defenders in Thailand are respected and protected in line with international law and standards.<sup>18</sup>

Similarly, the court ordering Andy Hall on 26th March 2018 to pay damages to Natural Fruit in a civil defamation case, related to the Al-Jazeera interview, has met with criticism. Among those who have issued statements are the UK Foreign and Commonwealth Office<sup>19</sup>, Amfori BSCI<sup>20</sup>, ETI<sup>21</sup>, 180 Nordic companies<sup>22</sup>, S-Group<sup>23</sup>, Human Rights Watch<sup>24</sup>, and FIDH<sup>25</sup>. Many of these organisations have called the order detrimental not only to human rights defenders and migrant workers but also to Thailand's export industries.

On 17th May 2018, six UN human rights experts issued a joint public statement<sup>26</sup> criticising the use of defamation charges to silence Andy Hall and other human rights defenders who report on business-related human rights abuse in Thailand.

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[http://eeas.europa.eu/delegations/thailand/documents/news/141114\\_eu\\_homs\\_statement\\_on\\_misuse\\_of\\_criminal\\_defamation\\_laws\\_en.pdf](http://eeas.europa.eu/delegations/thailand/documents/news/141114_eu_homs_statement_on_misuse_of_criminal_defamation_laws_en.pdf) Motion for a resolution, 6 October 2015, available at

<http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=B8-2015-1015&language=EN>

<sup>15</sup> See <http://bangkok.ohchr.org/news/press/AndyHall.aspx>

<sup>16</sup> See [http://www.ilo.org/asia/info/public/pr/WCMS\\_526122/lang--en/index.htm](http://www.ilo.org/asia/info/public/pr/WCMS_526122/lang--en/index.htm)

<sup>17</sup> See for instance European Parliament resolution of 6 October 2016 on Thailand, notably the situation of Andy Hall (2016/2912(RSP)) available at

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2016-0380&language=EN&ring=P8-RC-2016-1068> and also see

<http://www.europarl.europa.eu/sides/getDoc.do?type=CRE&reference=20161006&secondRef=ITEM-003-03&language=EN&ring=P8-RC-2016-1068>

<http://www.europarl.europa.eu/plenary/EN/vod.html?mode=unit&vodLanguage=EN&startTime=20161006-11:31:26-147>

and <http://news.trust.org/item/20161006130639-1xp1n>,

<https://www.euractiv.com/section/trade-society/news/malmstrom-backs-eu-whistleblower-over-thai-labour-rights/> and

<https://www.neweurope.eu/press-release/press-release-human-rights-ms-ingabire-in-rwanda-killings-in-sudan-and-mr-hall-in-thailand/>

<sup>18</sup> The letter is available on Finnwatch website at

<http://www.finnwatch.org/images/pdf/JointSignonLetterforAndyHall10122016.pdf>

<sup>19</sup> See at <https://twitter.com/FCOHumanRights/status/979629171621203969> and

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-04-13/135505/>

<sup>20</sup> See at <http://www.amfori.org/news/andy-hall-verdict-negative-impact-human-rights-development-thailand>

<sup>21</sup> See at

<https://www.ethicaltrade.org/blog/damaging-brand-thailand-reaction-court-ruling-against-labour-rights-advocate-andy-hall>

<sup>22</sup> See at <http://axfoundation.se/wp-content/uploads/2018/04/Nordic-comment-on-the-Thai-Court-decision.pdf>

<sup>23</sup> See at

[https://www.s-kanava.fi/en/uutinen/the-freedom-of-action-of-human-rights-defenders-must-be-ensured/4442128\\_384136](https://www.s-kanava.fi/en/uutinen/the-freedom-of-action-of-human-rights-defenders-must-be-ensured/4442128_384136)

<sup>24</sup> See at <https://www.hrw.org/news/2018/03/28/thailand-verdict-threatens-labor-abuse-reporting>

<sup>25</sup> See at

<https://www.fidh.org/en/issues/human-rights-defenders/thailand-sentencing-of-mr-andy-hall-a-migrant-labor-rights-researcher>

<sup>26</sup> See at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23095&LangID=E>