



Thailand

UPR Submission – September 2015

Sweeping and Unchecked Powers of the Junta

Gen. Prayut Chan-ocha staged a military coup on May 22, 2014 and established the National Council for Peace and Order (NCPO) junta. He then had himself proclaimed prime minister. There is no clear timeframe in the junta's "roadmap" that will deliver a return to democratic civilian rule through a free and fair election. Section 44 of the NCPO's interim constitution grants broad authority to the junta to carry out policies and actions without any effective oversight or accountability for human rights abuses. The interim constitution also provides that anyone carrying out actions on behalf of the NCPO "shall be absolutely exempted from any wrongdoing, responsibility, and liabilities."

Recommendations

- The Thai government should immediately revoke section 44 of the interim constitution and related provisions that serve as a basis for Thai authorities to repress fundamental freedoms and commit human rights violations with impunity.
- The Thai government should set a clear timeline for a return to democratic civilian rule through a free and fair election.
- The Thai government should ensure broad-based and inclusive process in the drafting of a new constitution, which should be approved by public referendum.

Censorship and Restrictions on Free Expression, Association and Peaceful Assembly

Immediately after the coup, the junta forced satellite TV channels and community radio stations associated with all political factions off the air. Some were later allowed to resume broadcasting provided they excluded negative comments about the junta or the situation in Thailand. The NCPO also ordered print media not to publicize commentaries critical of the military. After the lifting of martial law powers in March 2015, the junta has maintained censorship by using article 44 of the interim constitution.

Thai authorities blocked Human Rights Watch's Thailand webpage and more than 200 other websites about the situation in Thailand after accusing them of having content the NCPO deemed a threat to national security.

The junta has regularly blocked or disrupted public discussions on the political and human rights situation, as well as expression of differences in political opinions, alleging that these events threatened national security. Police and soldiers used NCPO orders to cancel the launch of reports by Human Rights Watch, Amnesty International, and the Thai Lawyers for Human Rights at the Foreign Correspondents Club of Thailand in Bangkok.

The NCPO regularly bans political gatherings of more than five people, with those violating the ban are subject to one-year imprisonment and a 20,000 baht (US\$600) fine. At least 80 people have been arrested since the coup for organizing or taking part in public gatherings.

The police and military have arrested protesters expressing disagreement with the junta. These protesters are often tried by military courts, where they could face up to two years in prison.

In June 2015, police and soldiers in Bangkok arrested 14 activists from the Neo-Democracy Movement (NDM) and charged them with sedition and violating the junta's ban on public assembly. If found guilty of sedition under article 116 of the Penal Code, they face up to seven years in prison.

The junta has made the prosecution of persons for acts considered *lese majeste* (insulting the monarchy) under article 112 of the Penal Code a top priority. Since the coup, 53 *lese majeste* cases have been brought, 40 for comments posted or shared online. Military courts have routinely imposed harsher sentences than had the civilian courts. In August 2015, the Bangkok Military Court sentenced Pongsak Sriboonpeng to 60 years in prison for his six alleged *lese majeste* Facebook postings (later reduced to 30 years when he pleaded guilty). It was Thailand's longest recorded sentence for *lese majeste*.

Recommendation

- Immediately end all infringement on the rights to freedom of expression, association and peaceful assembly under section 44 of the 2014 interim constitution, the Computer Crimes Act, and articles 112 and 116 of the Penal Code.

Secret and Arbitrary Detention and Military Courts

Since the coup, the NCPO has summoned at least 751 people to report to the military authority. Most of them were politicians, activists, and journalists accused by the junta of involvement in anti-coup activities. The NCPO considers failure to report to its summons as an offense subject to military court trial.

Under the provisions of martial law, and later section 44 of the interim constitution, the military can secretly detain people without charge or trial for up to seven days. Military personnel are able to interrogate detainees in military facilities without providing access to counsel or ensuring other safeguards against mistreatment. The NCPO has refused to provide information about people in secret military detention, increasing the risk of enforced disappearance, torture, and other ill-treatment.

The junta has significantly increased the use of military courts, which lack independence and fall well short of international fair trial standards, to try civilians for *lese majeste* offenses, crimes against national security, and sedition.

Recommendations

- End all arbitrary arrests and detention.
- Cease using secret military detention and trials of civilians in military courts.
- Ensure that all persons detained by the security forces are held at recognized places of detention, and are not subjected to torture or cruel, inhuman or degrading treatment or punishment.
- Immediately make public the names, status, and places of detention of all the persons who have been detained under martial law provisions and NCPO orders, and provide them access to their lawyers, family members, and medical assistance.
- Ensure access to all detention facilities and detainees by independent national or international humanitarian agencies.

Lack of Accountability for Politically Motivated Violence

From March to May 2010, political confrontations between the United Front for Democracy against Dictatorship (UDD), known as the "Red Shirts," and the government of then-Prime Minister Abhisit Vejjajiva, escalated into violence in Bangkok and several provinces. At least 99 people were killed and more than 2,000 were injured. The Justice Ministry's Department of Special Investigation (DSI) issued a finding in September 2012 indicating the military was responsible for 36 deaths.

Human Rights Watch's 2011 report "Descent into Chaos"ⁱ found that the high number of casualties – including of unarmed demonstrators, volunteer medics and first responders, reporters, photographers, and bystanders – resulted in part from the enforcement of "live fire zones" around the UDD protest sites in Bangkok, where sharpshooters and snipers were deployed by the military. Human Rights Watch also documented that some elements of the UDD, including armed "Black Shirt" militants, committed deadly attacks on soldiers, police, and civilians. Some UDD leaders incited violence with inflammatory speeches to demonstrators, urging their supporters to carry out riots, arson attacks, and looting.

While UDD leaders and supporters face serious charges for criminal offenses, Thai authorities have made insufficient efforts to identify the soldiers and commanding officers responsible for unlawfully shooting civilians. Prime Minister Prayut has publicly stated on many occasions that soldiers should not be condemned for the casualties they caused during the 2010 political violence.

There has been little progress in criminal investigations of the alleged abuses committed by the pro-military People's Democratic Reform Committee (PDRC) and the People's Alliance for Democracy (PAD), or efforts to seek compensation for damages caused by their protests.

Recommendations

- Immediately conduct an impartial, transparent, and independent inquiry into the violence of April-May 2010, as well as other politically motivated violence, and ensure that all perpetrators of serious crimes are brought to justice regardless of their status and affiliation.
- Provide prompt, fair, and adequate compensation for the victims of human rights violations and their family members by the security forces and other state officials.

Violence and Abuses in the Southern Border Provinces

Since January 2004, more than 6,000 people have been killed in a brutal internal armed conflict in Thailand's southern border provinces of Pattani, Yala, and Narathiwat.

Even though there was a drop of violent incidents after the resumption of peace dialogues in August 2015 between the Thai government and Barisan Revolusi Nasional (BRN) and other separatist groups in the loose network of Majlis Syura Patani (Mara Patani), both sides have frequently committed human rights abuses and violations of the laws of war.

Pejuang Kemerdekaan Patani insurgents operating in the loose network of BRN-Coordinate have frequently attacked and killed civilians. As detailed in our 2007 report "No One Is Safe,"ⁱⁱ insurgents use violence and terror to drive out the ethnic Thai Buddhist population, keep ethnic Malay Muslims under control, and discredit Thai authorities. Insurgents frequently and deliberately target teachers and schools, as documented in our 2010 report "Targets of Both Sides."ⁱⁱⁱ Insurgents are suspected in the killing of at least 183 teachers in the southern border provinces since January 2004.

Extrajudicial killings, enforced disappearances, arbitrary detentions, and torture have occurred regularly as part of the government's counterinsurgency campaign and in reprisals for insurgent attacks on the ethnic Thai Buddhist population and security personnel. No member of the security forces has been criminally prosecuted for human rights abuses in the southern border provinces.

Recommendations

- Ensure that any comprehensive strategy dealing with the southern insurgency is fully in accordance with international human rights and humanitarian law.
- Ensure prompt, independent, and impartial investigations into allegations of abuses by security personnel and government officials, and appropriately prosecute those responsible.
- Provide prompt, fair, and adequate compensation for the victims of human rights violations and their families committed by security personnel and government officials.
- Separatist groups should cease all attacks against civilians and civilian objects, and other violations of the laws of war.

Enforced Disappearances

There has been little progress in police investigation of the enforced disappearance of prominent ethnic Karen activist Por Cha Lee Rakchongcharoen, who was last seen in the custody of officials at Kaengkrachan National Park on April 17, 2014 in Petchaburi province.

To date, Thai authorities have failed to satisfactorily resolve any of the 81 enforced disappearance cases reported by Human Rights Watch in the 2007 report “It Was Like Suddenly My Son No Longer Existed”^{iv} and by other human rights groups, including the enforced disappearance and presumed murder of prominent Muslim lawyer Somchi Neelapajit by a group of police officers in March 2004.

Thailand has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance after signing the treaty in January 2012.

Recommendations

- Immediately conduct an impartial, transparent, and independent inquiry into enforced disappearance cases and prosecute all those responsible.
- Provide prompt, fair, and adequate compensation for family members of the victims of enforced disappearance.
- Promptly ratify the Convention on Enforced Disappearance and, even before ratification, adopt all necessary legislation and other measures to comply with its terms.

Refugees and Migrant Workers

Thailand has not acceded to the 1951 Refugee Convention and its 1967 Protocol, and has no domestic asylum law. Thai authorities continue to violate the international prohibition against refoulement by returning refugees and asylum seekers to countries where they are likely to face persecution. On July 9, 2015, the government refouled 109 ethnic Uighurs to China. The current whereabouts and status of these Uighurs are not known.

Ethnic Rohingya fleeing abuses, persecution, and hardship in Burma’s Arakan State or Bangladesh were often trafficked in Thailand. In May 2015, Thai authorities discovered at least 30 bodies at abandoned human trafficking camps in Songkhla province close to the Thai-Malaysian border. Police reports indicate the dead are Rohingya from Burma and Bangladesh who starved to death, or died of abuses and disease while held by traffickers who were awaiting ransom payments before smuggling them into Malaysia. Thai authorities arrested army Lt. Gen. Manas Kongpan and 89 local politicians, community leaders, businessmen, and criminal figures for trafficking of Rohingya, and their cases are pending in court.

Thai authorities have attempted to seal off the border to prevent boats carrying Rohingya from landing. On many occasions, those boats were intercepted and pushed back to the sea after receiving rudimentary humanitarian assistance and supplies from Thai authorities. On May 22, 2015, Thailand hosted an international meeting to address the Rohingya boat people exodus, but refused to work with the office of the UN High Commissioner for Refugees (UNHCR) to conduct refugee status determination screenings or set up temporary shelters for those rescued.

Asylum seekers are summarily treated as “illegal immigrants” and subject to deportation without regard to the threats facing them. Arrested migrants, including children, are held in overcrowded detention facilities.

Migrant workers from Burma, Cambodia, and Laos continue to be abused with impunity by local police, civil servants, and employers, as documented in our 2010 report “From the Tiger to the Crocodile.”^v A poorly designed and implemented “nationality verification” registration scheme caused hundreds of thousands of migrant workers to lose their legal status, deepening their vulnerability to exploitation.

Recommendations

- Respect its obligations under customary international law to not forcibly return any asylum seeker or refugee. The Thai government should also guarantee access to proper screening and status determination procedures by the UNHCR for any asylum seeker, including those detained in immigration facilities, who wishes to make a claim for protection, prior to deportation or forced return.
- Accede to the 1951 UN Refugee Convention and its 1967 Protocol.
- Establish a special commission to independently and impartially investigate the allegations of human rights violations of migrant workers, and prosecute all those responsible.

Human Rights Defenders

Since 2001, more than 30 human rights defenders and environmentalists have been killed in Thailand. The police have failed to charge suspects in most of these cases or provide adequate witness protection to witnesses. Thai authorities have not adopted effective protection for human rights defenders at risk.

In September 2015, the Phuket Provincial Court acquitted Chutima Sidasathian and Alan Morison – journalists from the online newspaper *Phuketwan* – who were put on trial for criminal defamation and breach of the Computer Crimes Act for publishing a paragraph from a Reuters special report on Rohingya boatpeople that the Thai navy alleged implicated their personnel in human trafficking.

In June 2015, Yala Provincial Prosecutor issued a non-prosecution order to Pornpen Khongkachonkiet and the Cross Cultural Foundation in a criminal defamation case, deciding they had published an open letter in good faith calling for an investigation of the alleged torture committed by paramilitary troops of the 41st Taharnpran Unit.

Despite positive outcomes in the above-mentioned cases, Thai authorities and private companies have continued to use criminal defamation lawsuits to silence those reporting about human rights violations. On August 24, 2015, the Southern Bangkok Criminal Court indicted migrant rights activist Andy Hall on criminal charges in a lawsuit filed by Natural Fruit Co. Ltd., one of Thailand's biggest pineapple processors, regarding a report alleging serious labor rights abuses at one of its factories.

Recommendations

- Act to protect persons engaged in promoting respect for human rights and reporting on abuses who are at risk.
- Conduct prompt and impartial investigations into attacks and intimidation against human rights defenders, and appropriately prosecute those responsible.

Abusive “War on Drugs”

As a result of the 2003 “war on drugs” campaign of former Prime Minister Thaksin Shinawatra, documented in Human Rights Watch’s report “Not Enough Graves,”^{vi} thousands of people were killed and many more were arbitrarily arrested across Thailand. The 2007 Independent Committee for the Investigation, Study and Analysis of the Formulation and Implementation of Narcotic Suppression Policy (ICID) found that the policy formulation and assessment of the “war on drugs” were driven by all-out efforts to achieve the campaign’s political goals rather than respecting human rights due process of law. It recommended that further inquiry should be pursued regarding the killings of 2,819 people during the “war on drugs.”

There are also concerns regarding the government policy that continues to subject drug users to compulsory treatment at centers run by the military and the Interior Ministry. Each year about 10,000-15,000 people are sent to such centers, where drug treatment is based on military-style physical exercise. Most people experience withdrawal from drugs while detained in prison for assessment, with little or no medical supervision or medication provided.

Recommendations

- Immediately conduct an impartial, transparent, and independent inquiry into the extrajudicial killings and other serious human rights violations committed in the context of the “war on drugs.”
- Provide prompt, fair, and adequate compensation for the victims and family members of the victims of human rights violations committed in the context of the “war on drugs” and other drugs suppression operations.
- Take concrete steps to reduce drug users’ fear of seeking health services by immediately and publicly declaring that drug users seeking health services will not be penalized or forced into drug treatment based solely on their self-identification as drug users.

Annex: Endnote

-
- ⁱ *Descent into Chaos - Thailand's 2010 Red Shirt Protests and the Government Crackdown*, Human Rights Watch, May 2011: <https://www.hrw.org/report/2011/05/03/descent-chaos/thailands-2010-red-shirt-protests-and-government-crackdown>
- ⁱⁱ “*No One Is Safe*” - *Insurgent Attacks on Civilians in Thailand's Southern Border Provinces*, Human Rights Watch, August 2007: <http://www.hrw.org/en/reports/2007/08/27/no-one-safe>
- ⁱⁱⁱ “*Targets of Both Sides*” - *Violence against Students, Teachers, and Schools in Thailand's Southern Border Provinces*, Human Rights Watch, September 2010: <http://www.hrw.org/en/reports/2010/09/20/targets-both-sides>
- ^{iv} “*It Was Like Suddenly My Son No Longer Existed*” - *Enforced Disappearances in Thailand's Southern Border Provinces*, Human Rights Watch, March 2007: <http://www.hrw.org/en/reports/2007/03/19/it-was-suddenly-my-son-no-longer-existed-0>
- ^v *From the Tiger to the Crocodile - Abuse of Migrant Workers in Thailand*, Human Rights Watch, February 2010: <http://www.hrw.org/en/reports/2010/02/23/tiger-crocodile>
- ^{vi} *Not Enough Graves - The War on Drugs, HIV/AIDS, and Violations of Human Rights*, Human Rights Watch, July 2007: <http://www.hrw.org/en/reports/2004/07/07/not-enough-graves-0>