



**Report on the Deterioration of Freedom of Expression in Thailand  
Submitted for the UN Universal Periodic Review  
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**(March 2021)**

**PART I: INTRODUCTION**

1. This report is prepared by the Association for Thai Democracy, USA (ATD), a group of Thai students and professionals living in the United States formed in 2020 to advocate for democratic transition in Thailand. This report highlights worsening suppression of freedom of expression and peaceful assembly, among other human rights violations by the Thai government. The report draws special attention to the use of the lèse-majesté law to suppress political dissidents, the use of excessive force against pro-democracy protesters, and the active harassment and intimidation campaigns by state authorities.
2. This report is organized as follows. Part II reviews the progress made since the previous Universal Periodic Review. Part III highlights the sharp deterioration in freedom of expression as the Thai government attempted to suppress the recent wave of youth-led pro-democracy protests in the country.

**PART II: FOLLOW UP ON THE PREVIOUS REVIEW**

3. Since the previous round of the Universal Periodic Review of Thailand, progress made in the implementation of recommendations has been limited, especially those related to political rights. In 2016, Thailand has promised to improve freedom of expression and civil and political rights.<sup>1</sup> However, Freedom of assembly in Thailand has arguably come under particular threat during this third UPR cycle despite Thailand's commitments to improve its political rights conditions.

## **PART III: RESTRICTIONS OF FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY**

### **3.1 THE USE OF LÈSE-MAJESTÉ**

#### **3.1.1 The problematic nature of the lèse-majesté law**

4. Since the previous UPR cycle, freedom of expression in Thailand has worsened most direly from the resurgence of use of the lèse-majesté law.
5. The lèse-majesté law, or Article 112 of the Penal Code, criminalizes “libels, insults and threats against the king, the queen, the regent, or the heir-apparent.” Authorities in Thailand have interpreted the law in an extremely broad manner. In a recent case, a 16-year-old boy was charged for dressing up like the King and displaying words on his body purportedly insulting the monarch.<sup>2</sup> In another recent case, Intira “Sai” Charoenpura, an actress and active supporter of the pro-democracy movement, was accused of lèse-majesté for writing “very brave” – words that had been used by the King to address his supporting crowd – on her Twitter account. The tweet was deemed sarcastic and therefore interpreted as an insult to the monarchy.<sup>3</sup>
6. The lèse-majesté is classified as a national security law, meaning that anyone could file a charge against anyone.<sup>4</sup> This opens the door for personal retaliation. For instance, a man filed a lèse-majesté complaint against his younger brother, who wrote a message critical to the monarchy on a CD-ROM and insulted the King while watching the television at home. Although his case was eventually dismissed, he was held in prison during the investigative process.<sup>5</sup> During the latest wave of lèse-majesté prosecutions, “general citizens” were the ones filing complaints against the protesters.<sup>6</sup>
7. It also carries a heavy penalty of 3-15 years’ imprisonment per count. In practice, a person may be sentenced for multiple counts even for a single series of actions, resulting in a long jail term. Thus, in a recent case, Anchan Preeert, a former civil servant, was sentenced to 87 years for sharing several audio clips deemed critical of the monarchy on her personal Facebook accounts. (Her sentence was halved because she pled guilty.)<sup>7</sup>

#### **3.1.2 The resurgence of lèse-majesté case**

8. Between 2018 and 2020, there was a hiatus in the use of the lèse-majesté law. In 2018 the Thai government, while rejecting the previous UPR's recommendations to amend or abolish the law, sought to limit its use. Prior to February 2018, all public prosecutors' units were required to investigate lèse-majesté complaints, resulting in high numbers of lèse-majesté indictments. Under the new directive in February 2018, the Attorney General alone could decide whether to pursue cases in court.<sup>8</sup> This led to a significant decrease in lèse-majesté cases to zero in 2019.<sup>9</sup> The Thai government, however, still used other laws to prosecute individuals who made monarchy-related comments, including the Computer Crimes Act and Article 116 of the Penal Code, known as the sedition law.)<sup>10</sup>
9. However, in late 2020, Thailand saw a resurgence of lèse-majesté prosecutions following mass protests against the Thai government. A wave of student-led pro-democracy protests started in early 2020 on university campuses across Thailand, as a response to the dissolution of the Future Forward Party<sup>11</sup> – the third largest party in the parliament, popular among younger generations – and the disappearance of Wanchalearm Satsaksit, an exiled Thai political activist in Phnom Penh, Cambodia.<sup>12</sup> However, this round of protests was interrupted by the government's lockdown order in response to the Covid-19 pandemic.
10. Another round of protests began in July 2020. Protesters demanded a resolution of parliament, a rewriting of the constitution (which was drafted by a military junta), and an end to harassment of dissidents by state authorities.<sup>13</sup> In August 2020, the protesters added another demand – a reform of the monarchy.<sup>14</sup> Subsequent protests saw open discussion about the monarchy, including its role in supporting military juntas, its appropriation of crown property, and its alleged involvement in human rights violations. In a demonstration outside the German embassy in Bangkok, protesters submitted an open letter to the German government, asking it to investigate into King Vajiralongkorn's alleged involvement in grave human rights violations while he resided in Germany.<sup>15</sup>
11. In late 2020, the government resumed the use of the lèse-majesté law. Between November 24, 2020 and March 25, 2021, at least 77 individuals were charged with lèse-majesté for participating in the protests and expressing their political opinions. This number included several key protest leaders – Parit "Penguin" Chiwarak, Anon Nampa, Panassaya "Rung" Sitthijirawattanakul, Panupong "Mike" Jadnok, Jatupat "Pai" Boonpattaraksa, Somyot Prueksakasemsuk. Parit faced 20 lèse-majesté cases, the highest number among the protest leaders. Among those charged, six were minors.<sup>16</sup>

### 3.1.3 Arbitrary pre-trial detention

12. The prosecutorial practices in lèse-majesté cases have been highly unusual. Despite the non-violent nature of the alleged offense, courts have granted bail to only 16 percent of lèse-majesté defendants awaiting trials, an exceptionally low percentage compared to other crimes.<sup>17</sup> Where bail was granted, bail bonds were prohibitively high (e.g. US\$6,500-154,000).<sup>18</sup> Protest leaders arrested on lèse-majesté charges have been denied bail despite having reported themselves to the police regularly and showing no sign of fleeing. On March 4, 2021, the court denied bail requests by Parit “Penguin” Chiwarak, Anon Nampa, Somyot Pruksakasemsuk, and Patiwat Saraiyam for the fifth time.<sup>19</sup> A few days later, Panassaya “Rung” Sitthijirawattanakul, Jatupat “Pai” Boonpattaraksa, and Panupong “Mike” Jadnok were also denied bail.<sup>20</sup> The pre-trial detention violates the presumption of innocence enshrined in both Thailand’s domestic laws and international law commitments<sup>21</sup> and may constitute arbitrary detention.

## 3.2 EXCESSIVE USE OF FORCE AND POLICE BRUTALITY

13. Despite Thailand’s obligations to the International Covenant on Civil and Political Rights (ICCPR), the Thai government repeatedly uses disproportionate force against pro-democracy protesters.<sup>22</sup> In addition, protesters have been followed and harassed by state authorities, inciting fear among those who participated in the pro-democracy movement. In one of the instances, a 12<sup>th</sup> grader was threatened by the local police that if he were to continue participating in protests, his parents would be imprisoned on his behalf.<sup>23</sup> As of March 21, 2021, at least 179 individuals were arrested for participating in political assemblies.<sup>24</sup>
14. On October 16, 2020, the Protection and Crowds Control Division (PCCD) used water cannons laced with chemical irritants and dye to disperse a peaceful pro-democracy protest. This tactic was used against many subsequent pro-democracy demonstrations and has caused several injuries, including 10 protesters whose skins burned off.<sup>25</sup> The use of dye – marking protesters for further legal actions, has also been described by Amnesty International as “indiscriminate.”<sup>26</sup>
15. Excessive use of force has only intensified since the beginning of 2021. In addition to the use of water cannons and tear gas, riot police fired rubber bullets at protesters on February 28 and March 20, 2021.<sup>27</sup> In many instances, rubber bullets were aimed at the protesters’ head, contradictory to the United Nations Guidance on Less-Lethal Weapons in Law Enforcement.<sup>28</sup> At least two reporters

were hit by rubber bullets, one was shot in the head.<sup>29</sup>

16. Riot police have also beaten unarmed protesters.<sup>30</sup> Among those beaten was a volunteer medic. A video clip shows officers in full riot gear chasing and beating him while in a visible yellow medic vest with a truncheon as he fell to the ground.<sup>31</sup>

#### **PART IV: RECOMMENDATIONS FOR ACTION**

17. That the Thai government stops prosecuting protesters with Section 112 (lèse-majesté) and Section 116 (sedition law) of the Penal Code, and the Computer Crime Act.
18. That the Thai government grants bail to those arrested under Section 112 and Section 116 of the Penal Code and adheres to the principle of presumption of innocence.
19. That the Thai government amends Section 112 of the Penal Code in accordance with international human rights law.
20. That the Thai government respects freedom of expression and freedom of peaceful assembly.

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<sup>1</sup> A/HRC/33/16 - Para. 158.

<sup>2</sup> "A 16-year-old boy in Thailand is being criminally charged under an infamous law against making fun of the king and could face up to 15 years in prison", *Insider*, 17 Dec 2020, <https://www.insider.com/thai-teen-charged-making-fun-king-could-face-15-years-2020-12> (last accessed 11 Jan 2021); "มาตรา 112: ศาลให้ประกันตัวเยาวชนอายุ 16 ที่ถูกแจ้งข้อหาหมิ่นสถาบันฯ", *BBC*, 17 Dec 2020, <https://www.bbc.com/thai/thailand-55344388> (last accessed 11 Jan 2021).

<sup>3</sup> "'Very brave': Actress charged with insulting Thai royals by writing two words", *Coconuts Bangkok*, 21 Dec 2020, <https://coconuts.co/bangkok/news/very-brave-actress-charged-with-insulting-thai-royals-by-writing-two-words/> (last accessed 25 Mar 2021).

<sup>4</sup> "รวม 10 ปัญหา มาตรา 112," *iLaw*, 3 Feb 2021, <https://freedom.ilaw.or.th/blog/10problems-on-Lese-Majeste> (last accessed 25 Mar 2021).

<sup>5</sup> "Case name | Yutthapoom: 112 – Brother vs Brother", *iLaw*, no date, <https://freedom.ilaw.or.th/en/case/439>. See also "เมื่อมาตรา 112 ถูกใช้กับปัญหาในครอบครัว", *iLaw*, 3 Jun 2013, <https://ilaw.or.th/node/2794> (last accessed 25 Mar 2021).

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- <sup>6</sup> “สถิติผู้ถูกดำเนินคดีมาตรา 112 “หมิ่นประมาทกษัตริย์” ปี 2563-64”, *Thai Lawyers for Human Rights*, 16 Dec 2020 (last updated 25 Mar 2021), [https://tlhr2014.com/archives/23983?fbclid=IwAR3hL0INnH7916xBVXOSxD4oxaPCAHebqYnNbiiGV2C3Aa9Jlwj\\_o6Sipag](https://tlhr2014.com/archives/23983?fbclid=IwAR3hL0INnH7916xBVXOSxD4oxaPCAHebqYnNbiiGV2C3Aa9Jlwj_o6Sipag) (last accessed 25 Mar 2021).
- <sup>7</sup> <https://www.cnn.com/2021/01/20/asia/thailand-lese-majeste-anchan-sentence-intl-hnk/index.html>, <https://www.amnesty.org/en/latest/news/2021/01/thailand-87-prison-sentence-lese-majeste/>
- <sup>8</sup> “สนง.อัยการสูงสุด ออกแนวปฏิบัติใหม่ รวบคดี 112 ให้ อสส.พิจารณา”, *BBC*, 27 Feb 2018, <https://www.bbc.com/thai/thailand-43209449> (last accessed 10 Jan 2021).
- <sup>9</sup> “รายงานการตั้งข้อหาทางการเมืองหลังรัฐประหาร 2557”, *iLaw*, last updated 23 Sep 2019, <https://freedom.ilaw.or.th/politically-charged> (last accessed 10 Jan 2021).
- <sup>10</sup> “Thailand Post Election Report: ม.116 “ยุยงปลุกปั่น” อาวุธทางการเมืองและสิ่งทดแทน ม.112”, *iLaw*, 27 Dec 2019, <https://freedom.ilaw.or.th/node/767?fbclid=IwAR0eir67qV-4gTvc-k4rBwVnj70kP5nIvcBitoTVivPwhZrKScXZFwk4I3M> (last accessed 10 Jan 2021). See also “Case name | Jatupat: shared BBC's article”, *iLaw*, no date, <https://freedom.ilaw.or.th/en/case/756> (last accessed 10 Jan 2021). The defendant’s sentence was reduced to two and half years because of his guilt plea. See “ศาลตัดสินจำคุกไม่ ดาเวดิน 5 ปี แต่ลดโทษกึ่งหนึ่ง”, *BBC*, 25 Aug 2017, <https://www.bbc.com/thai/thailand-40933040> (last accessed 14 Jan 2021).
- <sup>11</sup> “Hundreds join protest against ban of opposition party in Thailand”, *Reuters*, 22 Feb 2020, <https://www.reuters.com/article/us-thailand-politics/hundreds-join-protest-against-ban-of-opposition-party-in-thailand-idUSKCN20G0EW> (last accessed 25 Mar 2021).
- <sup>12</sup> “Cambodia: Thai Activist Abducted in Phnom Penh: Urgently Locate Wanchalerm Satsaksit”, *Human Rights Watch*, 5 Jun 2020, <https://www.hrw.org/news/2020/06/05/cambodia-thai-activist-abducted-phnom-penh> (last accessed 25 Mar 2021).
- <sup>13</sup> “Thai protesters call for government to resign”, *Reuters*, 18 Jul 2020, <https://www.reuters.com/article/us-thailand-protests/thai-protesters-call-for-government-to-resign-idUSKCN24J0HN> (last accessed 25 Mar 2021).
- <sup>14</sup> “[Full statement] The demonstration at Thammasat proposes monarchy reform”, *Prachatai*, 11 Aug 2020, <https://prachatai.com/english/node/8709> (last accessed 25 Mar 2021).
- <sup>15</sup> “Thailand protesters query German embassy on absent king”, *Nikkei Asia*, 26 Oct 2020, <https://asia.nikkei.com/Politics/Turbulent-Thailand/Thailand-protesters-query-German-embassy-on-absent-king> (last accessed 25 Mar 2021).
- <sup>16</sup> “สถิติผู้ถูกดำเนินคดีมาตรา 112 “หมิ่นประมาทกษัตริย์” ปี 2563-64”, *Thai Lawyers for Human Rights*, 16 Dec 2020 (last updated 25 Mar 2021), <https://tlhr2014.com/archives/23983?fbclid=IwAR3hL0INnH7916xBVXOSxD4oxaPCAHeb>

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[qYnNbiiGV2C3Aa9Jlwj\\_o6Sipag](#) (last accessed 25 Mar 2021). See also “ตารางรวมคดีมาตรา 112 ยุคการชุมนุมนักศึกษา-ราษฎร ตั้งแต่ปี 2563”, *iLaw*, 2 June 2020 (last updated 14 Jan 2021),

[https://freedom.ilaw.or.th/node/817?fbclid=IwAR1HqiOyXI4X4oW4ewDSrl7jCsnc3mSq2Op64pKMDgapkpX9\\_X4LstXQfgE](https://freedom.ilaw.or.th/node/817?fbclid=IwAR1HqiOyXI4X4oW4ewDSrl7jCsnc3mSq2Op64pKMDgapkpX9_X4LstXQfgE) (last accessed 14 Jan 2021).

<sup>17</sup> “สิทธิประกันตัว: สิทธิที่มักถูกยกเว้นสำหรับผู้ต้องหาดี 112”, *Prachathai*, 21 Feb 2021, available at [https://prachatai.com/journal/2021/02/91804?ref=internal\\_relate](https://prachatai.com/journal/2021/02/91804?ref=internal_relate) (last accessed 28 Feb 2021).

<sup>18</sup> “ย้อนดูเทรนด์การให้ - ไม่ให้ประกันตัวผู้วิจารณ์พระมหากษัตริย์ฯ ของศาลไทย”, *iLaw*, 26 Feb 2020, available at <https://freedom.ilaw.or.th/node/796> (last accessed 28 Feb 2021).

<sup>19</sup> “ศาลยกคำร้องขอประกันตัว เพนกวิน-อานนท์-สมยศ-หมอลำแบงค์ หลังแม่เพนกวินขอเป็นนายประกันเอง”, *BBC Thai*, 27 Feb 2021 (last updated 4 Mar 2021), <https://www.bbc.com/thai/thailand-56220928> (last accessed 25 Mar 2021).

<sup>20</sup> ราษฎร: ศาลไม่ให้ประกันตัว 3 แกนนำ “ราษฎร” คดี ม. 112-116 ชุมนุม 19 กันยายน”, *BBC Thai*, 8 Mar 2021, <https://www.bbc.com/thai/thailand-56316938> (last accessed 25 Mar 2021).

<sup>21</sup> *Domestic law: Constitution of the Kingdom of Thailand B.E. 2560*, Section 29; *Criminal Procedure Code*, Sections 107 and 108/1. *International law: International Covenant on Civil and Political Rights*, art. 9.

<sup>22</sup> “Thailand: Water Cannon Used Against Peaceful Activists: Protesters, Journalist Arrested Under Draconian Emergency Decree”, *Human Rights Watch*. 17 Oct 2020. <https://www.hrw.org/news/2020/10/17/thailand-water-cannon-used-against-peaceful-activists> (last accessed 25 Mar 2021).

<sup>23</sup> “การคุกคามที่สืบเนื่องจากการชุมนุมตั้งแต่วันที่ 18 กรกฎาคม 2563 หลังการชุมนุมของเยาวชนปลดแอก”, *iLaw*, 7 Aug 2020, <https://freedom.ilaw.or.th/en/node/836> (last accessed 25 Mar, 2021).

<sup>24</sup> “Number of persons held in custody at Border Patrol Police Region 1 from participating in political assemblies”, *Thai Lawyers for Human Rights*, 19 Feb 2021, <https://tlhr2014.com/en/archives/26177> (last accessed 25 Mar, 2021).

<sup>25</sup> “แจ้งความ สน.บางโพ ปมแพทย์นำผสมสารเคมีฉีดผู้ชุมนุม”, *Thai PBS*, 23 Nov 2010. <https://news.thaipbs.or.th/content/298584?fbclid=IwAR3Hwz-Hw29VMeoMaQhqzMJ5ElWEd3uqys3anaUo9Yqc5lpsvLSdP4LfKRQ> (last accessed 25 Mar 2021).

<sup>26</sup> “Thailand: Water cannons mark deeply alarming escalation in policing protests”, 17 Oct 2020. <https://www.amnesty.org/en/latest/news/2020/10/thailand-water-cannons-deeply-alarming-escalation/> (last accessed 25 Mar 2021).

<sup>27</sup> “ประมวลเหตุการณ์ใช้ “แก๊สน้ำตา-กระสุนยาง-รถฉีดน้ำ” สลายการชุมนุม REDEM”, *Thai PBS*, 28 Feb 2021, <https://news.thaipbs.or.th/content/301949> (last accessed 25 Mar 2021). See also “ชุมนุม 20 มีนา: ดร. ยิ่งกระสุนยาง-ใช้แก๊สน้ำตา-จับผู้ชุมนุม REDEM”, *BBC Thai*, 20 Mar

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2021. <https://www.bbc.com/thai/thailand-56466555> (last accessed 25 Mar 2021).

<sup>28</sup> “เปิดหลักสากล การใช้กระสุนยาง สลายการชุมนุม”, *Matichon*, 1 Mar 2021, [https://www.matichon.co.th/foreign/news\\_2602112](https://www.matichon.co.th/foreign/news_2602112) (last accessed 25 Mar 2021).

<sup>29</sup> “อาการ “นักข่าวช่อง 8” ถูกยิงหัว ปวดหัวหนัก-พบห้อเลือด”, *Daily News*, 21 Mar 2021. <https://www.dailynews.co.th/politics/832386> (last accessed 25 Mar 2021).

<sup>30</sup> “แห่แชร์คลิป ตำรวจรวมกระบี่กับผู้ชุมนุม ระหว่างสลายม็อบ 28 กุมภาพันธ์”, *Matichon*, 28 Feb 2021. [https://www.matichon.co.th/politics/news\\_2601176](https://www.matichon.co.th/politics/news_2601176) (last accessed 25 Mar 2021).

<sup>31</sup> “Police condemned for beating volunteer medic” Bangkok Post, *Bangkok Post*, 14 Feb 2021, <https://www.bangkokpost.com/thailand/politics/2068055/police-condemned-for-beating-volunteer-medic> (last accessed 25 Mar 2021).