

# Thailand UPR Network 2021 Joint Submission

*Thailand Cycle 3, 39 Sessions  
Joint Submission by 25 Writers*

## Methodology

The working group aims to take this UPR 39 sessions opportunity to promote engagement of youth and expanding a human right network using UN human rights mechanism. The working group created an inclusiveness process to encourage new individual writers to participate through online registration, all writers voluntarily registered. The writers consist with diverse background human rights such as youths who involved with democratic movement, social welfare, working in vulnerable NGO sector etc. It must be noted that some writers could not represent organization because many are not working in NGOs, some are still students, but they are willing to promote human rights situation in Thailand through the UPR mechanisms. The news in the endnote session are additional sources for more detail information. All writers had to join online UPR and human rights trainings before writing procedures. These activities are following below.

13 January 2021	Open call online for registration joint-statement, 238 registered.
22 January 2021	Human Rights Online Class on topic “ <i>Review, Challenges, and Move forward for next Thailand 3<sup>rd</sup> UPR Cycle</i> ” <sup>1</sup> .
30 January 2021	“ <i>Understand UPR Mechanism Workshop</i> ”
6 February 2021	“ <i>UPR Writing Training</i> ”
27 February 2021	Joint-writers submitted reports (25 joint-writers).

Endorsed by 28 organizations and 80 individual. List of writers and endorsement please see Annex 1.

# Thailand UPR Network 2021 Joint Submission

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<sup>1</sup> Amnesty Thailand Facebook: <https://www.facebook.com/AmnestyThailand/videos/882271739270878>

# Political Rights

## Constitutional Framework

### 1) “Undemocratic Constitution”

Thailand’s 2017 Constitution is undemocratic in both its drafting and referendum processes and substance. The Constitutional drafting committees were arbitrarily appointed by the NCPO<sup>2</sup> after the 2014 coup. Noticeably, the Constitution was designed to maintain military involvement in politics. This military-backed Constitution has severely undermined political and civil rights, leading to a nationwide peaceful movement demanding Constitutional amendments and democratic reforms.

### 2) “Unfree and Unfair 2017 Referendum on the Constitution”

The referendum on the Constitution was held on 7 August 2016 without appropriate and adequate nationwide debates. At least 120 activists were arrested while campaigning for the vote “no” campaign<sup>1</sup>. The military government denied political campaigns during the referendum process.

### 3) “Unfair National Election”

The 2017 Constitution produced an unfair election process. Among its several problems, the 2017 Constitution designated that the 250 senators appointed by the NCPO<sup>ii</sup> and military vote to endorse a prime ministerial candidate. As a result, Prayuth Chan-O Cha, the former leader of the NCPO, won the vote in the parliament.

## Peaceful Assembly / Freedom of Expression

4) As reported by the **Thai Lawyer for Human Rights** in March 2021, in over seven months, at least 382 activists have been prosecuted, resulting in 207 cases related to peaceful assembly and expression of political opinions<sup>3</sup>.

### 5) “International Covenant on Civil and Political Rights (ICCPR)”

Thailand is a party to the International Covenant on Civil and Political Rights (ICCPR) and is bound by its obligations to implement this treaty. Despite being in its 25th year of membership of the ICCPR, violations of the treaty have increased sharply over the years, leading to public criticism over the lack of adequate protection of the rights and freedoms guaranteed in the Covenant.

### 6) “Restrictions on Peaceful Assembly and SLAPP”

<sup>2</sup> NCPO = the National Council for Peace and Order (interim military government after 2014 coup)

<sup>3</sup>

Table of Number of Prosecuted		
Acts	Number of Prosecuted	Cases
Public Assembly Act	84	47
Emergency Decree	301	101
Defamation of monarchy or lèse majesté (Criminal Code 112)	60	47
Sedition (Criminal Code 116)	99	22
Unlawful assembly (Criminal Code 215)	152	25 <sup>3</sup>

Source: Last updated 3 March 2021, Thai Lawyer for Human Rights <https://tlhr2014.com/archives/26506>

Criminal charges under the lèse-majesté law (Article 112), Emergency Decree, Public Assembly Act, Maintenance of Public Sanitary and Order Act, Computer Crime Act, etc., have been used to violate people's freedom of peaceful assembly. These charges have obstructed the ongoing pro-democracy movement by creating a fearful environment. Strategic Lawsuit against Public Participation cases in Thailand spiked during the reporting period, showing the government's failure to protect these rights. The government claims that peaceful political demonstrations threaten the security of the state. The actions of the government should be in line with its international obligations including in the ICCPR and the Declaration on Human Rights Defenders<sup>iii</sup>. The General Comment 37 of the Human Rights Committee provides, inter alia, that the law enforcement officials who perform their duties in policing assemblies shall protect, monitor, observe medical personnel and on-ground media, and also seek to facilitate peaceful assembly. Thailand continues to violate the right to peaceful assembly which shall be fundamentally respected.

7) "Misuse of Legal Enforcement against Peaceful Assembly"

Due to the Covid-19 pandemic, the government has declared a state of emergency that precludes the enforcement of the Public Assembly Act, B.E. 2558. Thus, an assembly of persons is prohibited as violation of the state of emergency, allowing state authorities to crack down on protesters and restrict peaceful assembly.

8) "Continuation of Lèse-majesté provisions, Article 112 of Criminal Code"

As of 5 March 2021, at least 61 people involved in the pro-democracy movements were charged with lèse-majesté. A leading activist has been accused with at least 17 cases of lèse-majesté<sup>iv</sup>. Leading political activists charged with lèse-majesté were in pre-trial detention and denied bails. Such action is not in accordance with the ICCPR Article 9 stipulating that suspects awaiting trial should not be detained in custody. Article 112 of the Criminal Code is inconsistent with the ICCPR<sup>4</sup> and carries harsh penalties for vaguely defined offences that are construed as criticism of the monarchy. A charge of lèse-majesté warrants imprisonment of three to fifteen years. Those charged with multiple offenses can face lengthy jail terms. In February 2021, a woman was sentenced to 87 years (later halved to 43 years) in prison for sharing YouTube videos deemed insulting to the monarchy on her personal Facebook account. It is noteworthy that the content owner of the videos was sentenced to a much shorter jail term, pointing out the Court's unstandardized practice. Finally, trials are routinely held in close sessions, with defendants' rights severely curbed. Thailand's lèse-majesté law continues to be an apparent political tool to silence people.<sup>5</sup> The number of Thai political refugees prosecuted under article 112 is continuously surging following the political conflicts.

9) "Safety of Demonstrations and Medical Personnel"

On 13 February 2021, a pro-democracy, youth-led street group called "the Ratsadon" urged the release of four leaders and other activists who have been convicted of the lèse-majesté law (article 112). Video footage recorded by witnesses at the 13 February 2021 gathering at the Democracy Monument showed that the riot police descended on the protest site, clashing with the peaceful demonstrators using excessive force. The police intentionally and brutally attacked healthcare volunteers who carried no

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<sup>4</sup> (CCPR/C/G/34) General Comment 34 of the Human Rights Committee

<sup>5</sup> CCPR/C/21/Rev.1/Add.7, General Comment No. 25 of the Human Rights Committee

weapons and wore a green vest with the international symbol of emergency medical services. It is generally perceived among state and non-state members as a norm of customary international law that medical personnel shall be respected and protected by the government officers in all circumstance<sup>v</sup>.

10) “Violence against Peaceful Assembly”

Unnecessary and disproportional force have repeatedly been used to restrict peaceful assembly.<sup>vi</sup> On 16 October 2020, the police fired chemical irritants such as tear gas and chemical-laced water at protesters, resulting in at least 41 people injured. On 17 November 2020, tear gas was shot at protesters near the Kiakkai National Parliament<sup>vii</sup>. On 21 February 2021, high-pressure water cannon and rubber bullets were used against demonstrators in front of the headquarters of the 1<sup>st</sup> Infantry Battalion<sup>viii</sup>. Such methods of excessive force used by the Thai police are not in line with the international standards<sup>6</sup>.

11) “CRC, Rights of Children to Freedom of Peaceful Assembly, Association and Expression”

Triggered by the Future Forward Party’s dissolution, political protests against the government led by Prayut Chan-o Cha have escalated since the beginning of 2020. The youth and children demonstrations originally took place at educational campuses and later spread to many provinces throughout the country. Amid criticisms of abuse power, a severe state of emergency was declared during 15-22 October 2020, banning public gatherings of five or more people in Bangkok. At least 3 high school students under 18 have reportedly been prosecuted for their participation in the October 15 protest that took place in the capital’s downtown<sup>ix</sup>. Under the CRC Article 15, every child has rights to freedom of association and to freedom of peaceful assembly.

12) “Physical Violence during Arrest”

17 October 2020, a 16-year-old youth activist (anonymous) was arrested by police with physical force and other action that amount to inhumane and degrading treatment. Later on, police intimidated him to stop going to demonstrations<sup>7</sup>.

13) “Labor Strike Prohibited by the Criminal Code 117”

The Criminal Code section 117 restricts the peaceful assembly of labors<sup>8</sup>. A professor at Thammasat University was intimidated by the secretary of “the Thai Constitution Protector Foundation” who lodged a complaint against him for allegedly violating the Criminal Code 117 after the professor called out a nation-wide labor strike<sup>x</sup>.

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<sup>6</sup> Basic Principles on the Use of Force and Firearms by Law Enforcement Officials Article 12

Code of Conduct for Law Enforcement Officials Article 2

The United Nations Human Rights Guidance of Less-Lethal Weapons in Law Enforcement (7.2) Hand-Held Chemical Irritants and (7.7) Water Canon

<sup>7</sup> Based on one joint-writer’s experience who involved with demonstrations on 17 October 2020.

<sup>8</sup> The Criminal Code, Section 117: Whoever, instigates or causes a strike, lockout, or concerted cessation of trade or business with any person for the purpose of bringing about any change in the Laws of the Country, coercing the Government or intimidating the public, shall be punished with imprisonment not exceeding seven years or fine not exceeding fourteen thousand Baht, or both.

Whoever, with the knowledge of the above purpose, takes part or assists in the said strike, lock-out, or concerted cessation of trade or business with any person shall be punished with imprisonment not exceeding three years or fine not exceeding six thousand Baht, or both

Whoever, with the knowledge of the above purpose, commits any act of violence, threatens to commit any act of violence or intimidates by any means whatever so as to compel any person to take part or assist in any strike, lock-out, or concerted cessation of trade or business with any person, shall be punished with imprisonment not exceeding five years or fine not exceeding ten thousand Baht, or both.

## Recommendations for Political Rights

- a) Reconstitute a new Constitution in line with democratic principles and international human rights standards through a transparent and consultative process that ensure full participation of the people of Thailand.
  - b) Ensure the promotion and protection of rights to peaceful assembly, association and freedom of expression and opinion, and guarantee the safety of all peaceful demonstrators in accordance with international standards and ICCPR.
  - c) Ratify optional protocol ICCPR.
  - d) Stop using SLAPP to oppress peaceful assembly and freedom of expression.
  - e) Repeal the lèse-majesté law article 112.
  - f) Ensure that government officers who order and use excessive force against protesters are held accountable in line with international standards.
  - g) Ensure human rights education as compulsory element in school curricula at all levels.
  - h) Ensure human rights education and training for law enforcement officials.
  - i) Repeal the Criminal Code section 117 to promote the rights of labor to take part in peaceful assembly.
  - j) Amend all relevant domestic law in line with the CRC to prohibit prosecution of children for the exercise their rights.
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## Inequality, COVID-19 Impact and Social Welfare

### COVID-19

#### 14) “People more Vulnerable during COVID-19”

Since COVID-19 hit Thailand in January 2020, the government’s measures to support the poor and vulnerable have proven piecemeal and insufficient, ultimately heightening the already extreme wealth disparity in the country. After lockdown and economic recession, the unemployment rate in the second quarter of 2020 surged to double that of 2019, with around estimated 8.3 million people unemployed. Many youths also could not find jobs. In response, the government has implemented some measures to provide financial support. However, people can only receive support through a smartphone application or welfare cards; many people, particularly rural elderly, do not have smartphone to access government support. Many poor and vulnerable are excluded by incomprehensive assistance process<sup>xi</sup>. Those vulnerable, especially informal sectors and sex workers could not have appropriate income to live, and some have become homeless. Moreover, some sex-workers were extorted due the lack of legal recognition and protection. After first sixth months of COVID-19, there were 2,551 cases of suicide attempts due to economic burden<sup>xii</sup>.

#### 15) “Fishermen and local Business Bankrupted”

Fishermen could not distribute fish across provinces; many have been losing their income while they still have to pay basic monthly expenses. Government does not have an effective measurement for compensation and assistance to local fishermen. While the second outbreak of COVID-19 in 2021 in Samut Songkhram province at fish and seafood distribution markets, government forced to lockdown that area and prohibited fish distribution to another province. Lockdown measures have increased financial burden on

fishermen cost of extra freezing, rent and storage continue to add up. Some local merchants are bankrupt. Fishermen wanted government to continue to support and preserve the supply chain until economic lockdown eases<sup>9</sup>.

16) “Migrant Workers and Refugees are left Behind”

Migrant workers and refugees have been excluded from humanitarian assistance during COVID-19. They could not take aid packages and access to social security. Moreover, Thai government does not have a comprehensive plan to include migrant workers and refugees in alleviation process. Furthermore, caused by complicated employment system and social stigmatization, migrants have been facing patterns of exploitation by employers and government officers. There is no effective social security system that could include migrant workers<sup>10</sup>.

### Social Welfare and Inequality

17) “Most Inequality Country”

According to the Credit Suisse Global Wealth Report, in 2018, 66.9% of Thailand’s wealth belonged to only 1% population<sup>xiii</sup>. Thailand’s wide wealth gap and inequalities have led to collision between different social classes.

18) “Inequal Welfare System”

Government has failed to provide effective universal social welfare to all. Moreover, the national budgets allocation for social welfare prioritizes welfare benefits to government officers and civil servants instead of general population. (See annex 2)

19) “Failed universal healthcare”

Government has failed to implement its obligation to ensure universal health care in accordance with the 2017 Constitution section 55<sup>11</sup> and section 258(g)(4)<sup>12</sup>. The existing healthcare system discriminates between general population and civil servants who are able to obtain more welfare-benefits.

### Elderly

20) “Inappropriate Subsistence Allowances for Elderly”

Elder in Thai society lack sustaining economy and cannot obtain proper welfare from the state. Current, elderly receive monthly subsistence allowance of only 600-900 baht (20-30 USD) which is not enough to live. Their subsistence allowance is less than civil servant pension. On 4 February 2021, Prime Minister denied the **Draft National Pension Act** purposed by civil societies aiming to improve living standard of elderly<sup>xiv</sup>. Currently, the government measurement towards elderly is not in line with the United Nations Principles for Older Persons.

### Thai Migrant Workers

<sup>9</sup> Based on one joint-writer’s experience who involved in the field of fishermen.

<sup>10</sup> Based on one joint-writer’s experience who is working on migrant worker rights.

<sup>11</sup> The 2017 Constitution, section 55: the state shall ensure that the people receive efficient public health services universally, ensure that the public has the basic knowledge in relation to health promotion and disease prevention, and shall promote and support the advancement of wisdom on Thai traditional medicine to maximise its benefits. The public health services under paragraph one shall cover health promotion, control and prevention of diseases, medical treatment and rehabilitation. The State shall continuously improve the standard and quality of public health services.

<sup>12</sup> The 2017 Constitution, section 258 (g)(4) adjusting the health security system in order that the people are granted comparable rights and benefits from the management thereof and from access to quality and convenient service.

21) “Hundred Deaths of Thai Migrant Workers in South Korea”

Reported by the Reuters, the death of Thai undocumented workers in South Korea in 2020 was over hundreds. It was reported that the cause of death is excessive exploitation and inability to access appropriate healthcare. Four of ten deaths were unknown causes without proper investigation. This is transnational human rights problem for which Thailand and South Korea must ensure accountability. According to research, the main cause of Thai migration is poverty and political instability<sup>xv</sup>.

Recommendations for Inequality, COVID Impact and Social Welfare

- k) Take serious measures to reduce inequality gap.
- l) Ensure provision of effective social and subsistence support to all, including those who are tested positive for COVID-19 without discrimination.
- m) Simplify accessibility to assistance programs to all including those who are affected by COVID-19.
- n) Accelerate measures to ensure long-term solutions to reduce inequality by guaranteeing social welfare benefits without discrimination and regardless of social status for all, include Thai and non-Thai people.
- o) Strengthen support to elderly in accordance with the United Nations Principles for Older Persons.
- p) Take necessary steps to ensure protection of Thai migrant workers overseas and ensure accountability for violations of their rights abroad.

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## National Human Right Commission Thailand

22) “Non-Transparent Selection Process”

The 2017 Organic Law on the National Human Rights Commission is not based on the Paris Principles. The candidates at the end must be approved by the National Assembly where 250 Senators are selected by NCPO. As a result, the selection process is largely controlled by the military and shrouded in secrecy<sup>xvi</sup>.

23) “NHRCT does not Protect Political Right”

The NHRCT has neglected its duty to protect political right. It has been no action from NHRCT while government has violated peaceful assembly in recent political situation 2020-2021.

24) “NHRCT, the Mechanism to Defend the Government”

The 2017 Organic Law of NHRCT became the alibi institution for government. On 26 January 2021, NHRCT declared a new regulation called “Rule of Declaration Incorrectness to Reporting the Fact of Human Rights Violations in Thailand<sup>xvii</sup>” It formulated a criteria for investigations into human rights violations with the sole purpose to “clarify” or defend any non-UN human rights reports.

Recommendations for National Human Right Commission Thailand

- q) Amend the NHRCT organic law in line with the Paris Principle to ensure independence and effectiveness of the NHRCT.

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## Enforced Disappearance

### 25) “Enforced Disappearance beyond Thailand”

According to a UN report in 2015, there are at least, 82 unresolved cases of enforced disappearances in Thailand<sup>13</sup>. However, after 2015 the number of disappearances of Thais abroad has increased significantly. For example, in June 2020, Thai human rights defender Wanchalerm Suksit was disappeared in Cambodia. Many political activists who were living in Laos and Vietnam have also disappeared. Currently, Thailand and ASEAN do not have an effective mechanism to prevent enforced disappearance. The UN Working Group on Enforced or Involuntary Disappearances reports that at least 1,301 cases of remain unresolved in South-East Asia. It is reported unofficially that Thai government has convinced victims to impunity and cease investigation cases.

#### Recommendations for Enforced Disappearance

- r) Ensure thorough and transparent investigations into all cases of enforced disappearances including the disappearances of Thai activists abroad and ensure accountability.
- s) Immediately ratify ICPPED.
- t) Ratify optional protocol CAT.

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## Peace in Southern Thailand

### 26) “Security Laws”

Armed conflict in Southern Thailand is still largely contained with three security laws: Martial Law, B.E. 2457 (1914), Emergency Decree on Public Administration in Emergency Situation B.E. 2548 (2005) and Internal Security Law B.E. 2551 (2008). Military and government services have legal superiority over people. This continues to lead to arbitrary detentions, torture and dehumanizing treatment and abuse of fundamental rights.

### 27) “Peace process without public participation and gender balance”

Peace process in Southern Thailand lack of people participation. The current peace talk is negotiating only between the National Revolutionary Front (BRN) and government facilitated by Malaysia without role of people and civil societies. Furthermore, the role of women, youth are completely omitted within the peace process and development. Role of women and youth must be included in conflict resolution<sup>14</sup>.

#### Recommendations for Peace in Southern Thailand

- u) Repeal all three security laws to ensure sustainable peace in Southern Thailand.
- v) Ensure inclusive participation and ensure safety space of all stakeholders in the peace process.

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<sup>13</sup> Report of the Working Group on Enforced or Involuntary Disappearances (A/HRC/30/38)

<sup>14</sup> Security Council Resolution on women, peace and security, the resolution 1325 (2000)



- w) Ensure the role of women and youth in peace process in accordance with the Security Council resolution 1325 and 2250.
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## Gender

### LGBTQ

#### 28) “Discrimination and Difference of LGBTQ marriage laws”

LGBTQ are still facing discrimination based on marriage laws. Currently, there are two draft bills on marriage equality for LGBTQ persons: First, **Civil Partnership Bill** proposed by Ministry of Justice and second, **Marriage Equality Draft Bill** to amend Civil Code Article 1448 by civil societies and MP of Move Forward party. Rights provided by Civil Partnership Bill are ambiguous and not based on equal treatment and sets up distinctions between LGBTQ couples and heterosexual couples. In the other hand, Marriage Equality Draft Bill guarantees that LGBTQ marriages will enjoy equal rights as heterosexual marriage by simply amending Thai Civil and Commercial Code B.E. 2535 (1992) section 1448 and related articles to replace references to “**man and women**” with “**two persons**”<sup>15</sup>.

Under Civil Partnership Bill, LGBTQ unions will be defined as “**Civil Partnership**”, it does not guarantee equal rights and benefits as heterosexual marriages. Civil Partnership Bill perpetuates and institutionalizes existing discriminations faced by LGBTQ persons.<sup>xviii</sup>. (See Annex 3)

#### 29) Thai government ignored civil society’s demands to pass **Marriage Equality Bill** to ensure LGBTQ+ rights. This is inconsistent with the government’s obligations under the Yogyakarta Principles section 24<sup>16</sup> and ICCPR Article 26<sup>17</sup>.

### Period Poverty / Sanitary Pad Taxation

#### 30) “Sanitary Pad tax and Economic Burden”

Sanitary pad taxation is an additional economic burden for several women often described as period poverty. Average women may spend 180 baht (6 USD) per month and 2,160 baht (72 USD) per year as tax for sanitary products while Thai minimum wage is 300 baht; some could not even afford it monthly. According to interviews, some women in difficult economic situations decide to pay for sanitary pads instead of buying food. Currently, tax on sanitary products is 7% which is equal to tax on alcohol and cigarette which women are forced to pay for an essential product.

### Safe Abortion

#### 31) Main obstacles for women to access safe abortion service are laws and negative attitude of society, patriarchal culture, and religious beliefs. Service providers do not want to serve and to generally promote abortion services to women to allow them safe access to safe abortion services. Law that do not facilitate safe abortion forces women to resort to

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<sup>15</sup> Thai Civil and Commercial Code B.E. 2535 (1992), Section 1448: A marriage can take place only when **the man and woman** have completed their seventeenth year of age. But the Court may, in case of having appropriate reason, allow them to marry before attaining such age.

<sup>16</sup> The Right to Found A Family

<sup>17</sup> Prohibit discrimination based on sex and other status

unsafe abortions often with risks to their lives. The Special Rapporteur on extrajudicial, summary or arbitrary executions note that the punishment for women who get abortion is a main cause of death of women from unsafe abortions. In Thailand, it is necessary to amend the Criminal Code articles 301<sup>18</sup> and 305<sup>19</sup> to legalise abortion and reduce the number of women who die from unsafe abortions.

### Recommendations

- x) Address discrimination against LGBTIQ persons by ensuring legal recognition of same-sex couples, including their children, and equal benefits to same-sex couples in accordance with recommendations of the UN Independent Expert on Sexual Orientation and Gender Identity.
- y) Adopt the proposed Marriage Equality Bill to ensure marriage equality for LGBTQ couples and withdraw the discriminatory **Civil Partnership Bill**.
- z) Include LGBTQ within revising legislation on Thai Civil and Commercial Code 1448 to ensure equal marriage for LGBTQ.
  - aa) Repeal taxation on sanitary pads and products.
  - bb) Amend the Criminal law article 301 to decriminalize abortion at all stages of pregnancy.
  - cc) Amend the Criminal law article 305 to ensure medical practitioners are not punished for the providing abortion services.
  - dd) Guarantee safe abortion into the social security system and creating accountability abortion sectors in medical service, including counselling.

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## Youth

### Student Uniform

- 32) The Ministerial regulation on the Student Uniform Act B.E. 2551 (2008) authorizes schools and ministries to design school uniforms. However, until now students are not allowed to express themselves through their uniform and dress. The education sector shall allow self-expression of students. The uniform wearing must be voluntary. Student uniform also hinders freedom of expression as well as expression of gender identities of students. The student uniform is designed by schools rather than through constructive dialogue and students are excluded from process of setting up those rules.
- 33) Strict application of the Student Uniform Act reflects the authoritarianism in the education sector. School authorities have often used their power to impose corporal punishment on students who do not follow the uniform codes.

### Sexual Harassment in Schools

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<sup>18</sup> The Criminal Code, section 301 Any woman, causing herself to be aborted or allowing the other person to procure the abortion for herself, shall be imprisoned not out of three years or fined not out of six thousand Baht, or both.

<sup>19</sup> Section 305 If the offence mentioned in Section 301 and Section 302, be committed by a medical practitioner, and, 1. It is necessary for the sake of the health of such woman; 2. The woman is pregnant on account of the commission of the offence as provided in Section 276, Section 277, Section 282, Section 283 or Section 284 the offender is not guilty.

- 34) According to the Office of the Basic Education Commission (OBEC) of Thailand, between 2014 and 2020 at least 1,186 children were sexually assaulted while 105 of them were assaulted by teachers.
- 35) On 20 July 2020, the Minister of Education established a centre for protection and assistance for students who have been sexually abused with the purpose to provide opportunities for victims or witness of sexual harassment in the school to lodge complaints. However, sexual harassments by teachers still persist in educational institutions<sup>20</sup>. These demonstrates that the government lacks potential in providing public awareness to prevent sexual harassment and public understanding about the protection centre for victims who were uncertain on the procedure to deal with the situation.
- 36) Sexual harassment and assault is often a daily occurrence in Thailand and some youth were sexually harassed or assaulted in their homes and workplaces.

#### Recommendations for Youth

- ee) Take immediate steps to ensure protection of children from sexual harassment in schools, homes and workplaces including by ensuring accountability of these crimes.
- ff) Take necessary measures through legislation and regulation to prohibit all forms of corporal punishment in schools and education sector.
- gg) Ensure safe environments in schools, especially in bathrooms and changing rooms.
- hh) Incorporate human rights and sexual and reproductive health education in school curriculum with particular focus on preventing sexual harassment and assault and to ensure access to remedy.

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## Business and Human Rights

#### Investment

##### 37) “Chana Industrial Estate”

People’s voices continue to be excluded in large scale development projects. One example of this the Chana Industrial Estate project in Songkhla province in Southern Thailand. It is designed to establish an 18 billion USD economic estate on a 16,700 rai land and it covers over 3 sub-districts and affects over 1,500 residents. Ironically, this project was approved by the last cabinet meeting of the military government and using arbitrary legislation to accelerate the environment impact assignment (EIA) without fair and appropriate inclusive public hearing process. However, this project will have significant adverse impact on livelihoods, tradition and environment. It has led to recent demonstration led by the Chana Rak Thin group demanding people’s participation in decision making, and protection of the environment in all development projects<sup>xix</sup>.

#### Recommendations for Macro Investment

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<sup>20</sup> For instance, 11 August that one M.1 student was sexually harassed by a 56-year-old male teacher when she was in the toilet<sup>20</sup>. On 23 January 2021 one autistic student was sexually assaulted by her teachers and seniors<sup>20</sup>, and on 23 February 2021, a teacher in Surin province allegedly sexually assaulted more than 10 children<sup>20</sup>.

- ii) Ensure public participation and free, prior and informed consent of people affected by development projects at all levels of decision making on development projects.
- jj) Ensure protection of land rights and environmental rights in implementation of all development projects in line with Business and Human Rights Principle and Practices.

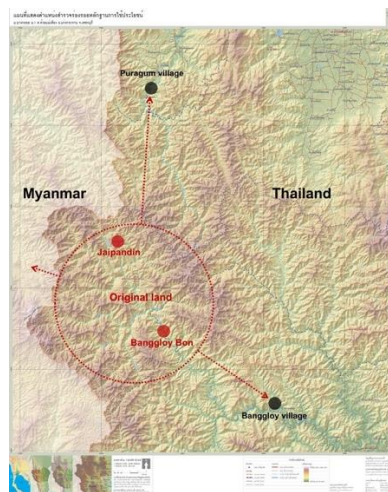
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## Indigenous Rights

### The Karen Bang Kloi in Kaeng Krachan National Park

#### 38) “No indigenous Culture in Government’s Conception of World Heritage”

The Karen Bang Kloi who live in the Kaeng Krachan National Park since 1912 were forcibly relocated from their homeland “Jaipandin” and “Bang Kloi Bon” after the proclamation of Kaeng Krachan National Park in 2010. On 16 February 2021, an MOU was signed between Ministry of Resources and Karen representatives to allow Karen to return to their homeland. However, government officers claimed that Karen have burned the forest for agricultural activities<sup>21</sup>, leading to arbitrarily arrest of 22 Karen in “Bang Kloi Bon. Kaeng Krachan is an area that government aims to apply for world heritage with UNESCO. Nonetheless, government should respect and consider the rights of indigenous persons living in the area and their cultural rights and traditional practices as part of Keang Karchan world heritage<sup>xx</sup>.



*Image by Sustainable Development Foundation (North)*

### Recommendations

- kk) Stop all forms of violence against Karen community and other indigenous communities.
- ll) Respect cultural rights of indigenous people in decisions to allocate heritage.
- mm) Ensure free, prior and informed consent of indigenous people in all decisions that affect their lives in line with international standards.
- nn) Reinforce the MOU of 16 February 2021.

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<sup>21</sup> Burning forest is Karen tradition of shifting cultivation.

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## Supplement

The Criminal Code B.E. 2499 (1956)

<https://www.thailandlawonline.com/laws-in-thailand/thailand-criminal-law-text-translation#chapter-1>

Emergency Decree on Public Administration in Emergency Situation B.E. 2548 (2005)

[http://web.krisdika.go.th/data/document/ext810/810259\\_0001.pdf](http://web.krisdika.go.th/data/document/ext810/810259_0001.pdf)

The Thai Civil and Commercial Code B.E. 2535 (1992), Section code 1448 – 1460

<https://library.siam-legal.com/thai-law/civil-and-commercial-code-marriage-section-1448-1460/>

(Unofficial translation) the Constitution of The Kingdom of Thailand B.E. 2560 (2017)

[https://cdc.parliament.go.th/draftconstitution2/ewt\\_dl\\_link.php?nid=1460&filename=index](https://cdc.parliament.go.th/draftconstitution2/ewt_dl_link.php?nid=1460&filename=index)

Public Assembly Act B.E. 2558 (2015)

<http://lawdrafter.blogspot.com/2015/08/translation-thai-public-assembly-act-of.html>

## Endnote

- <sup>i</sup> The Devil in the Details: Thailand's New Constitution in a Nutshell, *Prachatai*, 9 April 2017  
<https://prachatai.com/english/node/7062>
- <sup>ii</sup> Section 272 of Thai 2017 Constitution
- <sup>iii</sup> Strategic Litigation Against Public Participation (SLAPP), *Prachatai*  
<https://prachatai.com/english/category/strategic-litigation-against-public-participation-slapp>  
Thirteen People have now been Arrested by the Government for Exercising their right to protest, *Thai Enquirer*, 27 August 2020, <https://www.thaienquirer.com/17618/thirteen-people-have-now-been-arrested-by-the-government-for-exercising-their-right-to-protest/>
- <sup>iv</sup> Thailand: Prominent Activists Held in Pre-Trial Detention, *Human Rights Watch*, 9 February 2021, <https://www.hrw.org/news/2021/02/09/thailand-prominent-activists-held-pre-trial-detention>
- <sup>v</sup> Beaten Medic Volunteer Charged with Breaking Emergency Decree, *Khaosod English*, 15 Feb 2021  
<https://www.khaosodenglish.com/politics/2021/02/15/beaten-medic-volunteer-charged-with-breaking-emergency-decree/>
- <sup>vi</sup> Thailand Protests: Riot Police Fire Water Cannon as Protesters Defy Rally Ban, *BBC*, 16 October 2020  
<https://www.bbc.com/news/world-asia-54573349>  
(In Thai) Timeline of 16 October Demonstration in Phatumwan Intersection, *ประมวลภาพการสลายการชุมนุมที่แยกปทุมวัน*, *iLaw Freedom*, 14 November 2020, <https://freedom.ilaw.or.th/node/861>
- <sup>vii</sup> (In Thai) Police dissolved Constitution Demonstration in front Parliament, *Prachatai*  
ตำรวจสลายการชุมนุมมือเบรียกร็องแกไขรัฐธรรมนูญที่หน้าสภา, □□□□□□, 17 November 2020, <https://prachatai.com/journal/2020/11/90463>
- <sup>viii</sup> (In Thai) Dissolution in front of 1<sup>st</sup> Infantry Battalion on 21 February 2021  
ประมวลเหตุสลายการชุมนุม #มือเบรียกร็องแกไขรัฐธรรมนูญที่หน้าสภา กระสุนยาง-แก๊สน้ำตา-รถฉีดน้ำ หน้ากรมทหารราบที่ 1 หลังเคลื่อนขบวนจากอนุสาวรีย์ชัยฯ, *ไพศาล ชานว*, *The Standard*, 01 January 2021, <https://thestandard.co/28-feb-rally-conclusion-photos>
- <sup>ix</sup> Thai Police to Charge High School students over protest, *The Reuters*, 20 November 2020  
<https://www.reuters.com/article/us-thailand-protests/thai-police-to-charge-high-school-students-over-protest-idUSKBN2800SR?edition-redirect=uk>
- <sup>x</sup> (In Thai) “ศรีสุวรรณ” แจงจับ “ษ์ษฐรัมย์” อาจารย์ มธ. ปลุกนัดหยุดงาน ร่วมมือบไล้รัฐบาล (“Srisuwan” called to jail Thammasat University for national strike), *Matichon Online*, 18 February 2021, [https://www.matichon.co.th/politics/news\\_2584913](https://www.matichon.co.th/politics/news_2584913)
- <sup>xi</sup> Communication Breakdowns leave Thailand Vulnerable to Second Virus Wave, *Thaipbsworld*, 9 Jan 2021  
<https://www.thaipbsworld.com/communication-breakdowns-leave-thailand-vulnerable-to-second-virus-wave/>  
Thai Economy Struggles Amid COVID Second Wave, *VOA*, 29 Jan 2021  
<https://www.voanews.com/covid-19-pandemic/thai-economy-struggles-amid-covid-second-wave>
- <sup>xii</sup> Thailand's suicide rate surged 22% in past six months of the COVID-19 pandemic, *Thaipbs World*, 10 Sep 2020  
<https://www.thaipbsworld.com/thailands-suicide-rate-surged-22-in-past-six-months-of-the-covid-19-pandemic/>  
22% rise in suicide cases indicates links with Thai economy and lockdowns, *Thethaiger*, 11 Sep 2020  
<https://thethaiger.com/news/national/22-rise-in-suicide-cases-indicates-links-with-thai-economy-and-lockdowns>  
At breaking point, Thailand's poor are killing themselves, *Coconuts Bangkok*, 23 Apr 2020  
<https://coconuts.co/bangkok/news/at-breaking-point-thailands-poor-are-killing-themselves/>
- <sup>xiii</sup> Thailand's Wealth Inequality is the Highest in the World: What will this mean for the Upcoming Elections?  
*ASEAN Today*: 16 Jan 2019 <https://www.aseantoday.com/2019/01/thailands-wealth-inequality-is-the-highest-in-the-world-what-does-this-mean-for-upcoming-elections/>
- <sup>xiv</sup> (In Thai) 102 Organizations denounced government as denied Drafting National Pension Act, *Matichon*, 8 Feb 2021 [https://www.matichon.co.th/politics/news\\_2568861](https://www.matichon.co.th/politics/news_2568861)
- <sup>xv</sup> Exclusive: Hundreds of Thai workers found dying in South Korea with Numbers Raising, *The Reuters*, 22 Dec 2020, <https://www.reuters.com/article/us-thailand-southkorea-workers-idUSKBN28W033>  
A Study of Thai ‘Illegal’ Workers in South Korea, *Don Tajaroensuk*, Master Thesis, Chonnam National University

- 
- <sup>xvi</sup> Thailand: New Hope for the National Human Rights Commission of Thailand?, *Forum-Asia*, 6 Sep 2018  
<https://www.forum-asia.org/?p=27206>
- <sup>xvii</sup> (In Thai) “Rule of Declaration Incorrectness to Reporting the Fact of Human Rights Violations in Thailand, NHRCT, 26 January 2021  
[http://www.ratchakitcha.soc.go.th/DATA/PDF/2564/E/034/T\\_0001.PDF?fbclid=IwAR2aUwLspiFvc4ixpP9914O7cYw\\_hGVkN0LmM\\_1vVP\\_UbL19MCOvTI5Guzo](http://www.ratchakitcha.soc.go.th/DATA/PDF/2564/E/034/T_0001.PDF?fbclid=IwAR2aUwLspiFvc4ixpP9914O7cYw_hGVkN0LmM_1vVP_UbL19MCOvTI5Guzo)
- <sup>xviii</sup> Marriage Equality Rights for Sexual Diversity People in Thailand, *Chawinroj Terapachalaphon and Panumas Kudngaongarm*, School of Law, Sukhothai Thammathirat University.
- <sup>xix</sup> Chana Industrial Project Delayed Protesters return home, *Prachatai*  
<https://prachatai.com/english/node/8971>  
Environmental Reviews for Chana Estate, *Bangkok Post*, 4 March 2021  
<https://www.bangkokpost.com/business/2077863/environmental-reviews-for-chana-estate>
- Investment Plan for the Special Development Zone of Chana District in Songkhla, *The Public Relations Department*, 22 Jan 2020, [https://thailand.prd.go.th/mobile\\_detail.php?cid=49&nid=8910](https://thailand.prd.go.th/mobile_detail.php?cid=49&nid=8910)
- <sup>xx</sup> Land of their Hearts: the Bang Kloi indigenous Karen Community on their long road home, *Anna Lawattanatrakul*, *Prachatai*, <https://prachatai.com/english/node/9090>