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Human rights situations that require the Council's attention

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[02 June 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Thailand: Post-coup violations concerns abide, one year on and a “temporary situation” is becoming permanent

Further to its statements to the UN Human Rights Council in June 2014¹ and March 2015,² Amnesty International remains concerned that authorities in Thailand continue to violate many of the country’s international human rights obligations following the imposition of martial law on 20 May 2014 and the coup on 22 May 2014.³

While authorities lifted martial law provisions on 1 April 2015, there is no indication when they will lift repressive restrictions on the right to liberty and the peaceful exercise of other human rights, in particular those relevant to peaceful involvement in political activities.

Authorities have retained sweeping powers, identical to, if not more draconian than those they had under martial law, using Article 44 of the Interim Constitution to deny or excessively restrict human rights in the name of security, without administrative review. These includes powers granted by authorities in April 2015 to appoint army officers (“peace and order maintenance officers”) to arbitrarily detain persons, carry out inquiries and searches without a warrant. The provisions granting these powers must be repealed.

Thai authorities continue to arbitrarily detain and imprison individuals, prevent or censor meetings and public events, and otherwise suppress peaceful dissent. The Public Assembly Act, which was passed on 1 May 2015, adversely affects the human right to freedom of peaceful assembly as well as to freedoms of expression and association, by requiring advance notification, and in effect official permission for public assemblies, and by providing for criminal penalties for failing to meet this and other conditions. Thailand’s derogation from obligations under the International Covenant on Civil and Political Rights with regard to the rights to appeal, freedom of expression and peaceful assembly, enacted on 8 July 2014 and notified to the United Nations, remains in place.⁴

Fair trial rights are being violated by the use of military courts to try civilians. Moreover, individuals continue to be tried in military courts for acts that have been criminalised in violation of Thailand’s human rights obligations, including participation in peaceful gatherings and carrying out other peaceful acts of expression. Scores have already been prosecuted. Arrests, detentions, prosecutions and imprisonment for up to 50 years under Thailand’s repressive *lèse majesté* law have dramatically increased since the coup, with significantly increased application of lengthier sentences. While authorities have restored the right of appeal for civilian defendants in military courts, appeals would be to a higher military court rather than to a civilian one. Moreover, the right is still denied to individuals alleged to have committed offences before 1 April 2015.

Authorities have denied the National Human Rights Commission and forensic experts access to individuals who reported being tortured or otherwise ill-treated during incommunicado detention without charge or trial. The liberty of hundreds of politicians, academics, activists and journalists previously arbitrarily detained following the coup continues to be subjected to conditions imposed on them upon release, including restrictions on their rights to freedom of peaceful assembly, expression and movement. They will face prosecution should they breach the conditions. Broad restrictions on freedom of expression and peaceful assembly remain in place, including a blanket ban on political activities.

¹ *Thailand: Respect and protect the human rights of people in Thailand.*

<http://www.amnesty.org/en/library/info/ASA39/010/2014/en> [last accessed on 28 May 2015]

² *Thailand: Post-coup violations continue: is a “temporary situation” becoming chronic?*

<https://www.amnesty.org/en/documents/asa39/1042/2015/en/> [last accessed on 28 May 2015]

³ See, for example, *Thailand: Arrests on coup anniversary are a stark reminder of ongoing repression*

<https://www.amnesty.org/en/articles/news/2015/05/thailand-arrests-on-coup-anniversary-stark-reminder-of-repression/> [last accessed on 28 May 2015]

⁴ <https://treaties.un.org/doc/Publication/CN/2014/CN.479.2014-Eng.pdf> [last accessed on 28 May 2015]

Concerns remain for the safety of human rights defenders in rural communities. Following the lethal attack on 12 February 2015 on Chai Bunthonglek, a member of the Southern Peasants' Federation of Thailand and campaigner for the land rights of the Khlong Sai Pattana Community in Surat Thani Province, death threats have been reported against members of the Khlong Sai Pattana Community and Phianrat Bunrit, President of the Southern Peasants' Federation of Thailand.

A longstanding human rights concern that persists, and has even worsened of late, is that Thailand has failed to provide asylum seekers with adequate protection as well as full and fair access to international refugee screening procedures. This is evident specifically for significant numbers of Rohingya fleeing violence, discrimination and persecution in Myanmar. Although Thailand has not ratified the 1951 Refugee Convention, it must abide by principles of customary international law. This includes the principle of non-refoulement, which prohibits the transfer of anyone to a place where his or her life or freedom would be at risk, as well as the ban on torture and other cruel, degrading and inhuman treatment. Other relevant binding principles of international law include provisions set out in the 1982 UN Convention on the Laws of the Sea (to which Thailand is a state party), such as the duty to establish search and rescue operations to locate and help boats requiring assistance including those carrying asylum seekers.

Recommendations

Amnesty International continues to urge members and observer states of the UN Human Rights Council to call on authorities in Thailand to:

- Transfer all judicial jurisdiction over civilians from military to civilian courts;
- End arbitrary detentions and restrict the army's powers to detain civilians;
- Independently and effectively investigate all reports of torture and other acts of ill-treatment, and bring suspected perpetrators, including those with command responsibility, to justice in fair proceedings in civilian courts without recourse to the death penalty;
- Lift the sweeping restrictions on freedom of expression and peaceful assembly and withdraw all draft legislation imposing further restrictions;
- Overturn convictions and sentences, withdraw charges and release individuals who have been sentenced or charged for peacefully exercising their rights to freedom of expression or assembly;
- Repeal or amend the lèse majesté law to ensure that it does not penalize the peaceful exercise of the right to freedom of expression, and suspend the application of this law pending such repeal or amendments;
- Respect and protect the right to life, including of human rights defenders, and ensure that all violations of the rights of human rights defenders are promptly, effectively and independently investigated;
- Provide asylum-seekers with meaningful access to asylum procedures and to the UN High Commissioner for Refugees (UNHCR) and ensure that individuals who are fleeing persecution are afforded international protection;
- End all detention of asylum seekers and migrants solely for their status or for the means by which they entered the country;
- Ratify the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol; and
- Restore full constitutional protection of human rights.