



General Assembly

Distr.: General
29 August 2013

English only

Human Rights Council

Twenty-fourth session

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

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

[22 August 2013]

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

Delayed accountability and continued impunity for state violence in Thailand

1. The Asian Legal Resource Centre (ALRC) wishes to raise grave concerns with the Human Rights Council about ongoing impunity for state violence during the crackdown on the supporters of the United Front for Democracy Against Dictatorship (UDD), or the “Red Shirts,” during April-May 2010 in Thailand.

2. Beginning in early 2006, the group of citizens who became the People’s Alliance for Democracy (PAD), or the “Yellow Shirts,” began to organize protests calling for the ouster of the elected prime minister, Thaksin Shinawatra, and the protection of the nation and traditional organizations, including the monarchy. On 19 September 2006, the military intervened and launched an extraconstitutional coup to oust Thaksin. While no blood was shed during the coup itself, the widespread political contention and violence in the nearly seven years since the coup can be seen as the legacy of the abrogation of the rule of law. The coup began a cycle of political contention and street protests between the royalist-nationalist PAD, who opposed Thaksin, and the group of citizens who became the populist UDD, who were against the coup. As part of the political contention, the Constitutional Court carried out a series of dissolutions of political parties: first, the Thai Rak Thai Party (TRT) of Thaksin Shinawatra in May 2007, and then the People’s Power Party (PPP), which TRT reconstituted itself as, in December 2008.

3. The political contention reached a height between March and May 2010, when thousands of supporters of the UDD occupied central areas in Bangkok calling for new elections and end to double standards in politics. During the two months of the occupation, the relationship between the UDD and state security forces were often contentious. In response to the protests and the presence of thousands of demonstrators in the capital city of Bangkok, the Democrat Party government of Prime Minister Abhisit Vejjajiva declared a State of Emergency in Bangkok and surrounding areas on 7 April 2010 under the Emergency Decree on Government Administration in a State of Emergency (“Emergency Decree”). On 13 May 2010, the State of Emergency was expanded to include another 12 provinces in northern, northeastern, and central Thailand; by late May, it was expanded to be in force in a total of 24 provinces across the country. The Emergency Decree gives blanket powers to state actors to resolve the State of Emergency, including by making arrests, censoring the press, restricting movement and using armed force. A temporary agency, the Center for the Resolution of the Emergency Situation (CRES) was set up to coordinate state action under the Emergency Decree. During the 14th session of the Council in June 2010, the ALRC expressed concern about the arbitrary interrogation and detention of activists under emergency regulations, as well as the difficulty of securing information about the numbers and nature of the interrogation and detention. (A/HRC/14/NGO/42).

4. In a series of incidents beginning on 10 April 2010 and ending on 19 May 2010, the government of PM Abhisit Vejjajiva decided to use the army and ultimately deadly force to enact a crackdown to remove the UDD protestors from the streets. At least 92 people were killed and at least 2100 were injured during the two-month period. The use of deadly and disproportionate force by Thai state security forces was a significant breach of international human rights standards. While the ALRC notes that some members of UDD may have had weapons, the burden in this instance was on the state to take appropriate measures to protect the rights and lives of citizens.

5. In the over three years since the conclusion of violence, state efforts to document who perpetrated acts of violence and to secure accountability for the overwhelmingly civilian deaths and injuries have been partial at best, and verge on negligence. While the judiciary under the governments of both Prime Minister Abhisit Vejjajiva, and the Pheu Thai

government of Prime Minister Yingluck Shinawatra, who was elected in July 2011, have actively prosecuted members of the UDD on charges of terrorism and arson, prosecutors have not brought charges against members of the state security forces for their roles during April and May 2010. In addition, despite extensive state resources being devoted to three different information-gathering processes about the events, the two reports revealed to the public have been flawed and incomplete and one report remains unreleased at present.

6. The ALRC would like to remind the Government of Thailand of the Commission on Human Rights' updated set of principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/2005/102/Add.1). The Commission described the obligations of states to end impunity and secure accountability in the aftermath of state violence as follows: "Impunity arises from a failure by States to meet their obligations to investigate violations; to take appropriate measures in respect of the perpetrators, particularly in the area of justice, by ensuring that those suspected of criminal responsibility are prosecuted, tried and duly punished; to provide victims with effective remedies and to ensure that they receive reparation for the injuries suffered; to ensure the inalienable right to know the truth about violations; and to take other necessary steps to prevent a recurrence of violations." The ALRC is concerned that without sincere and concerted effort by the Government of Thailand, the long history of impunity in the country will be further consolidated by the failure to bring perpetrators of the violence of April-May 2010 to justice.

7. A series of investigations have been carried out by different kinds of actors, including a state agency, two state-appointed independent bodies, and a citizen group. The citizen group, the People's Information Center (PIC), released their report in late August 2012; the Truth and Reconciliation Commission of Thailand (TRCT), the first of the independent bodies, released a short report in September 2012 and their full report in July 2013; and the National Human Rights Commission (NHRC), the second of the independent bodies, released their report in August 2013. The report of the state agency, the Department of Special Investigation (DSI), has not been made public. The ALRC would like to highlight that in comparison to the reports of both the TRCT and the NHRC, the report of the People's Information Center (PIC), a citizen group, released in September 2012, represents a rigorous accounting of the events of March-May 2010. The ALRC views the report of the PIC as an important action by citizens in the service of protecting human rights and ending impunity. Further, particularly in the case of the gross misunderstandings of basic human rights principles reflected in the NHRC report, the ALRC would like to express concern that the state is either not as concerned with securing accountability as citizens, or lacks the capacity to do so. Either of these explanations indicates a significant obstacle to the consolidation and promotion of human rights in Thailand.

8. Although postmortem inquests have been initiated by the state prosecutor and carried out in some of the cases of the April-May 2010 deaths, no charges have been filed against state officials for their clear roles in the violence. To examine but one example, on the final day of the crackdown, 19 May 2010, 6 civilians were killed inside a Buddhist temple, Wat Pathum Wanaram, which was close to the center of the protests. On 6 August 2013, the Bangkok Southern court ruled in the postmortem inquest in Black Case No. C5/2555 that these 6 civilians were killed by soldiers. The court noted that, "The deaths were caused by being shot with .223 or 5.56 mm bullets and the direction of fire was from where the competent officials were stationed to perform their duties to maintain order on the BTS's rail tracks in front of Wat Pathum Wanaram Ratcha Worawiharn and around Rama I Road. At the instructions of the Center for Resolution of Emergency Situation (CRES), the officials took control over the area of the Ratchaprasong Intersection. And as a result of that, the first deceased died of gunshot wounds on his lungs and heart causing hemorrhage, the second deceased died of gunshot wound that destroyed his lungs, the third deceased died of gunshot wounds that destroyed his lungs, heart and liver, the fourth deceased died

of gunshot wounds that destroyed his lungs and liver, the fifth deceased died of gunshot wounds that destroyed her brain and the sixth deceased died of gunshot wounds that went through his oral cavity, whilst no particular perpetrators can be identified” (unofficial translation provided by Prachatai). Given the conclusion by the court, it is incumbent upon the Government of Thailand to ensure that the case does not end with the inquest, but that further action is taken so that the officials responsible for carrying out the violence and the officials responsible for ordering the violence are held to account.

9. In early August 2013, the Parliament began to examine amnesty bills related to political events and violence after the 19 September 2006 coup. On 6 August 2013, the Office of the UN High Commission on Human Rights expressed concern that the draft bills being examined might, if enacted, pardon those involved in the violation of human rights and called on the Government of Thailand to ensure that those responsible for violating human rights be excluded by the amnesty and that perpetrators be prosecuted for their actions. The ALRC would like to echo the OHCHR’s concern and to further note that the categories of state officials to be pardoned by the draft amnesty bill of MP Worachai Hema, the bill currently being examined, are unclear.

10. In view of the above and in line with the principles for the protection and promotion of human rights through action to combat impunity, the Asian Legal Resource Center calls on the UN Human Rights Council to:

- Call on the Government of Thailand to ensure that the amnesty bill ultimately passed redresses, rather than consolidates, impunity and the violation of human rights.
- Call on the Government of Thailand to ensure that the judicial processes related to April-May 2010 violence do not end with inquests but continue to the prosecution of the responsible state officials in accordance with the law.
- Urge the Government of Thailand to expedite the release of the report of the Department of Special Investigation (DSI) regarding the April-May 2010 violence.
- Request the Office of the UN High Commissioner on Human Rights to continue monitoring developments related to accountability for the April-May 2010 violence in Thailand.