

HUMAN RIGHTS WATCH

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HRW.org

Mr. Herman Van Rompuy
President of the European Council
Rue de la Loi 175
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Re: Thailand's Human Rights Issues

October 15, 2014

Dear President of the European Council,

We are writing on behalf of Human Rights Watch in advance of the 10th Asia-Europe Meeting (ASEM) Summit in Milan, Italy on October 16-17, 2014. Many leaders from Asian and European countries are scheduled to attend the meeting, including Prime Minister Gen. Prayuth Chan-ocha of Thailand.

This year's ASEM Summit aims to promote cooperative efforts by Asia and Europe to address major challenges, including promotion and protection of human rights. Human Rights Watch believes that the summit meeting presents an important opportunity to press Thailand's military junta to act immediately to improve its human rights record and take concrete measures to restore democratic civilian rule. There are several major issues of concern that we hope your government will forcefully raise with General Prayuth.

Sweeping and Unchecked Military Powers

The Thai military staged a coup on May 22, 2014, establishing the ruling National Council for Peace and Order (NCPO), and on July 22, without any public consultation, promulgated the 2014 interim constitution. The interim constitution grants the junta broad and unchecked authority, including committing rights violations with immunity under Thai law.

The interim constitution permits the NCPO to carry out policies and actions without any effective oversight or accountability. The NCPO has wide discretion to issue orders and undertake acts the military authorities deem appropriate, regardless of the human rights implications¹. This sweeping power can be carried out without any judicial or other oversight. The constitution further provides that NCPO members and anyone carrying

¹ Interim Constitution, section 44 states: "Where the head of the NCPO is of the opinion that it is necessary for the benefit of reforms in any field, or to strengthen public unity and harmony, or for the prevention, disruption or suppression of any act that undermines public peace and order or national security, the monarchy, national economics or administration of State affairs," the head of the NCPO is empowered to "issue orders, suspend or act as deemed necessary. ... Such actions are completely legal and constitutional."

out actions on behalf of the NCPO, including the May 22 coup, “shall be absolutely exempted from any wrongdoing, responsibility and liabilities².”

Instead of paving the way for a return to democratic civilian rule, the junta has created a closed and undemocratic political system. The NCPO filled the National Legislative Assembly and the National Reform Council with military personnel and others persons known to have close links to the junta. Since its formation, the assembly has operated as a rubber-stamp body for the NCPO rather than placing any checks on the junta’s broad executive powers. Meanwhile, members of the National Reform Council were told by General Prayuth to strictly follow the junta’s “reform agenda” and not to publicly express their own views.

There is also no clear timeframe for the Constitution Drafting Committee to present a new draft constitution. Furthermore, once that draft constitution is proposed, there are no requirements for any public consultation or approval by a citizen referendum.

Thailand has been under military rule for four months. The NCPO has publicly announced that the draconian Martial Law Act of 1914 will remain effective across the country “as long as necessary.”

Censorship and Restrictions on Free Expression

Immediately after the coup, using martial law powers, the NCPO forced satellite TV channels and community radio stations from all political factions off the air. Some were later allowed to resume broadcasting provided they excluded programs on political issues. The NCPO ordered print media not to publicize commentaries critical of the military. TV and radio programs were instructed not to invite guests who might give negative comments about the situation in Thailand. On July 26, the NCPO threatened to prosecute the weekly magazine *Phu Jad Karn Sud Sapda* if it continued to publish stories alleging military cronyism and corruption.

More than 200 websites, including Human Rights Watch's Thailand page, have been blocked by the junta as threats to national security. The NCPO has banned public gatherings of more than five people and prohibits anti-coup activities. Protesters who have expressed disagreement with the junta— such as by showing a three-finger “Hunger Games” salute as an act of defiance, putting duct tape over their mouths, reading George Orwell’s novel *1984* in public, or playing the French national anthem, “*La Marseillaise*,” in public—have been arrested and sent to military courts, where they face up to two-year prison terms.

The junta also perceives political discussions and difference in political opinions as a threat to stability and national security. On September 18, the NCPO ordered a “Democracy Classroom” seminar at Thammasat University to be shut down, and police detained the speakers for several hours. On September 2, the NCPO ordered the cancellation of a panel discussion on the human rights situation after the coup at the Foreign Correspondents Club of Thailand.

² Interim Constitution, section 48.

Criticizing the monarchy is a serious criminal offense in Thailand. Persons charged with *lese majeste* (insulting the monarchy) are routinely denied bail and held in prison for many months awaiting trial. In most cases, convictions result in harsh sentences. General Prayuth gave a policy statement setting out that a top NCPO priority is to prosecute critics of the monarchy. Since the coup, at least 14 new *lese majeste* cases have been brought to the Bangkok Military Court and criminal courts around Thailand. On September 19, the Appeals Court upheld the Bangkok Criminal Court's verdict sentencing Somyot Prueksakasemsuk to 11 years in prison for publishing two articles in his magazine that made negative references to the monarchy.

Arbitrary and Secret Detention

Since the coup, the junta has detained more than 300 politicians, activists, journalists, and people that it accused of supporting the deposed government, disrespecting the monarchy, or being involved in anti-coup protests and activities. The NCPO held people in incommunicado lockup in military camps. Some have been held longer than the seven-day limit for administrative detention provided for under martial law. Soldiers arrested Kritsuda Khunasen, a United Front for Democracy against Dictatorship (UDD) activist, on May 27, in Chonburi province and held her incommunicado until June 24. Kritsuda alleged that soldiers beat her during interrogation and suffocated her with a plastic bag over her head until she lost consciousness. There still has not been any official inquiry into Kritsuda's allegations or into other alleged torture and mistreatment in military custody.

The NCPO has refused to provide details about the release of detainees—many who were held without charge—and continues to arrest and detain others. Persons released from military detention are forced to sign an agreement that they will not make political comments, become involved in political activities, or travel overseas without the junta's permission. Failure to comply could result in a new detention, a sentence of two years in prison, or fine of 40,000 baht (US\$1,250). The junta cancelled passports of at least 10 exiled dissidents, including Paris-based former National Human Rights Commissioner Jaran Ditapichai and London-based academic Verapat Pariyawong, and put them on arrest warrants for failing to report when summoned.

Abuses against Human Rights Defenders

The Thai military has used defamation lawsuits to silence human rights defenders and make it more difficult for victims to voice their complaints.

On August 8, the Thai Army's 41st Task Force in Thailand's southern Yala province filed defamation suits against the Cross Cultural Foundation and its head, Pornpen Khongkachonkiet, for allegedly damaging the army's reputation by publishing an open letter exposing torture of an ethnic Malay Muslim by a paramilitary unit.

Chutima Sidasathian and Alan Morison, journalists from the online newspaper Phuketwan, were put on trial on May 26 for criminal defamation and breach of the Computer Crimes Act for publishing a paragraph from a Reuters special report on ethnic Rohingya boatpeople. The Thai Navy initiated the complaint because the article

contained a passage implicating navy personnel in human trafficking. The trial is scheduled to resume in March 2015.

Prominent ethnic Karen activist Por Cha Lee Rakchongcharoen, known as “Billy,” was forcibly disappeared after Kaengkrachan National Park officials arrested him on April 17 in Petchaburi province. There has been no progress in the police investigation to locate Billy and bring those responsible for his enforced disappearance to justice.

Thailand signed the International Convention for the Protection of All Persons from Enforced Disappearance in January 2012, but has taken no steps to ratify the treaty. Thailand’s penal code does not recognize enforced disappearance as a criminal offense. The Thai authorities have failed to give priority to solving any of the 64 known cases of enforced disappearance, including the case of prominent human rights lawyer Somchai Neelapaijit who was “disappeared” 10 years ago after he was arrested by police officers in Bangkok.

Plight of Refugees, Asylum Seekers, and Migrant Workers

General Prayuth announced in July that the 140,000 Burmese refugees living in camps along the Thai-Burmese border would not be forced to return home against their will. However, Thai authorities have placed intensified scrutiny on unregistered camp residents, who comprise approximately 40 percent of the population and who have been effectively blocked from receiving refugee status under Thai policy.

Thailand is not a party to the 1951 Refugee Convention and has no law that recognizes refugee status. Asylum seekers, including ethnic Rohingya from Burma and ethnic Uighurs from China, who get arrested face long periods of detention until they are accepted for resettlement or agree to be repatriated at their own expense. Child migrants and asylum seekers are regularly held in squalid immigration facilities and police lock-ups.

In June, several hundred thousand migrant workers from Cambodia, Burma, and Laos fled Thailand fearing a crackdown by the junta. Thailand’s labor laws provide little protection to migrant workers. A migrant worker registration scheme does little to counter the impunity with which employers violate workers’ rights. Migrant workers remain extremely vulnerable to exploitation, with female migrants enduring sexual violence and trafficking, and male migrants facing extreme labor exploitation, including being trafficked onto fishing boats. Thailand has done little to combat human trafficking.

Accountability for 2010 Political Violence

At least 90 people died, including Italian photographer Fabio Polenghi, and more than 2,000 were injured in the 2010 political violence between the then government of Prime Minister Abhisit Vejjajiva and the UDD, known as the “Red Shirts.” Soldiers were responsible for the large majority of casualties by using unnecessary and excessive lethal force, while elements of the UDD were also responsible for deadly attacks on soldiers, police, and civilians.

General Prayuth, who at the time commanded military operations in 2010 as the army commander-in-chief, has astonishingly maintained that soldiers did not kill anyone during the confrontations, despite numerous eyewitness accounts and other evidence. Successive Thai governments have likewise accepted these false claims instead of pursuing justice for victims of the violence and their families. Soldiers have been treated as witnesses in the investigations and fully protected from criminal prosecution. As a result, no military personnel have been charged for the killings even though court inquests found that 15 of the victims had been shot dead by soldiers.

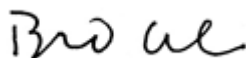
In a statement issued on May 23, the European Union urged the NCPO to accept and respect democratic governance and human rights standards, as well as to hold credible and inclusive elections as soon as possible. None of those demands are likely to be fulfilled in the current situation under unaccountable and abusive military rule.

We appreciate your attention to our concerns and trust that you will raise them in discussions with the Thai delegation attending ASEM. We wish you a fruitful meeting and look forward to a continued dialogue with you.

Sincerely,



Lotte Leicht
EU Advocacy Director
Human Rights Watch



Brad Adams
Executive Director
Asia Division, Human Rights Watch

CC:

High Representative of the European Union for Foreign Affairs and Security Policy and Vice-President of the European Commission, Baroness Catherine Ashton

Secretary-General of the European External Action Service (EEAS), Mr. Pierre Vimont

Deputy Secretary General for the European External Action Service (EEAS), Ms. Helga Schmid

Deputy Secretary General for the European External Action Service (EEAS), Mr. Maciej Popowski

Head of Cabinet to President of the Commission, Mr. Johannes Laitenberger

Advisor to the President of the Commission for External relations, Mr. Hugo Sobral

Chair of the EU's Political and Security Committee, Ambassador Mr. Walter Stevens
Ambassadors to the EU Political and Security Committee
Head of Cabinet to the High Representative, Mr. James Morrison
Advisor to the High Representative, Mr. Miguel Ceballos Baron
EU Special Representative for Human Rights, Mr. Stavros Lambrinidis
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Chair of the European Parliament's Foreign Affairs Committee, Mr. Elmar Brok
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