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July 26, 2017

Hon Julie Bishop MP
Foreign Minister
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

HUMAN
RIGHTS
WATCH

HRW.org

Re: Thailand's Human Rights Issues

Dear Foreign Minister,

I am writing on behalf of Human Rights Watch concerning the human rights situation in Thailand. We urge you to take any opportunity to publicly and privately press the Thai government to act urgently 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 you will raise with Prime Minister Gen. Prayut Chan-ocha in line with your stated belief that “sustainable political stability is more likely to be found in the restoration of a democratically elected government operating under the rule of law.”

Sweeping, Unchecked, and Unaccountable Military Power

The Thai military staged a coup on May 22, 2014, and created the National Council for Peace and Order (NCPO). On March 31, 2015, the nation-wide enforcement of the Martial Law Act of 1914 was replaced with section 44 of the 2014 interim constitution, which allows Prime Minister Prayut as the NCPO chairman to wield power without administrative, legislative, or judicial oversight or accountability, including for human rights violations. In addition, section 47 states that all such orders are “deemed to be legal, constitutional, and conclusive.” Section 48 further provides that NCPO members and anyone carrying out actions on behalf of the NCPO “shall be absolutely exempted from any wrongdoing, responsibility, and liabilities.”

Key constitutional bodies set up by the NCPO, such as the National Legislative Assembly and the National Reform Steering Assembly, are dominated by military personnel and other junta loyalists, meaning that there are no effective checks and balances on military rule.

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The new constitution, which was promulgated on March 6, 2017, ensures that NCPO members will not be held accountable for any of the many rights violations committed since taking power. It also strengthens and prolongs military control of the government even after an election that the junta promises to hold in 2018.

Censorship and Restrictions on Free Expression

Thailand has now been under military rule for more than three years. The junta's promised reconciliation and "road map" to return to democratic civilian rule has become meaningless because of censorship and the prosecution of those expressing dissenting opinions.

Since taking power, the junta has severely restricted media freedom and conducted extensive surveillance of the internet and other online communications. Print media have been ordered not to publicize commentaries critical of the junta, and soldiers have been sent into newsrooms to convey the junta's orders directly to editors and reporters. TV and radio programs have been instructed not to present negative reports about military rule in Thailand. Non-complying stations like Voice TV were taken off the air. Some were later allowed to resume broadcasting if they agreed to self-censorship, by excluding outspoken commentators or avoiding political issues altogether.

Asserting that political discussions and differences in political opinions could somehow undermine social stability and national security, Thai authorities have frequently canceled political events, academic panels, seminars, and public forums on issues related to the state of human rights and freedom in Thailand.

Thai authorities continue to enforce the ban on political gatherings of more than five people, with violators subject to punishment that includes up to a year in prison and a 20,000 baht (US\$600) fine. Thousands of dissenting activists, politicians, journalists, and human rights defenders have been taken to military camps for questioning and, in the junta's parlance, "adjusting" of their attitude. The junta has also compelled those released from "attitude adjustment" programs to sign a written agreement that they will not make political comments, become involved in political activities, or oppose military rule. Failure to comply with such agreements could result in a new detention or a sentence of two years in prison.

Ahead of the constitutional referendum on August 7, 2016, the junta aggressively curtailed the rights to freedom of expression, association, and peaceful assembly through repressive laws such the Referendum Act, the Computer-Related Crime Act, and article 116 of the Penal Code on sedition, as well as executive orders censoring media and preventing public gatherings of more than five people. Thai authorities arrested at least 120 politicians, activists, journalists, and supporters of political movements who had criticized the proposed constitution, publicly announced they would vote "no," urged voters to reject the draft constitution, or sought to monitor voting.

Thailand's new Computer-Related Crime Act, which the junta-installed National Legislative Assembly adopted in December 2016, gives broad powers to the government to restrict free speech and enforce censorship. The law provides vague and overbroad grounds for the government to prosecute anything they deem as "false" or "distorted" information. Even content online that is not illegal can be banned and ordered to be deleted by the court based on a request from a computer data screening committee, appointed by the Minister of Digital Economy and Society, stating that the content is against public order or good morals of the people. The precedent of interpretation by Thai authorities has troubling implications for human rights reporting. After the May 2014 coup, the government blocked the Human Rights Watch Thailand webpage for containing information that was considered by authorities to be "inappropriate."

People charged with lese majeste (insulting the monarchy), a serious criminal offense in Thailand, are routinely denied bail and held in prison for months or years while awaiting trial. This is the case of prominent pro-democracy student activist Jatupat Boonphattharaksa, who was arrested in December 2016 on lese majeste and computer crimes charges for posting on his Facebook page a profile of Thailand's King Maha Vajiralongkorn Bodindradebayavarangkun, published by the BBC Thai language service. Thai authorities deem the article to be critical of the monarchy and block it in Thailand. Since the May 2014 coup, at least 105 people have been arrested on lese majeste charges, mostly for posting or sharing online commentary. Some have been convicted and sentenced to years or even decades of imprisonment. In May 2017, Thai authorities threatened to shut down all access for users in Thailand to Facebook to pressure the social media platform to block or remove alleged lese majeste content posted by various users. Since 2016, the government has repeatedly requested that the United States, United Kingdom, Sweden, France, Australia, New Zealand, Japan, Cambodia, and Laos send back Thai citizens who sought asylum from persecution under lese majeste charges.

Secret Arbitrary Detention, Torture and Military Courts

Under NCPO Orders 3/2015 and 13/2016, military authorities have the power to secretly detain people for up to seven days without charge and interrogate them without access to lawyers or safeguards against mistreatment. The junta has repeatedly dismissed allegations that soldiers have tortured detainees but then failed to provide any evidence to rebut those allegations.

Human Rights Watch has frequently raised serious concerns regarding secret military detention in Thailand. The risk of enforced disappearance, torture, and other ill-treatment significantly increases when detainees are held incommunicado in military custody. The junta continues to refuse to provide information about people in secret detention. In addition, there have been no indications of any serious or credible official inquiry by Thai authorities into reports of torture and mistreatment in military

custody. In February 2017, the junta-appointed National Legislative Assembly decided to indefinitely suspend its consideration of the Prevention and Suppression of Torture and Enforced Disappearance Bill, and the government has not clarified whether the bill will be reintroduced.

The use of military courts, which lack independence and fail to comply with international fair trial standards, to try civilians remains a major problem. In September 2016, Prime Minister Prayut revoked NCPO orders that empowered military courts to try civilians for national security offenses, including lese majeste and sedition. However, the action is not retroactive and does not affect the more than 1,800 cases already brought against civilians in military courts across Thailand.

Abuses against Human Rights Defenders

The Thai government has an obligation to ensure that all people and organizations engaged in the protection and promotion of human rights can work in a safe and enabling environment. However, the military and other government agencies have used criminal charges, including defamation and sedition charges, to retaliate against human rights defenders and make it more difficult for victims to voice complaints.

For example, in May 2016 the Internal Security Operations Command filed a criminal complaint against human rights defenders Somchai Homlaor, Pornpen Khongkachonkie, and Anchana Heemmina, accusing them of criminal defamation under the Penal Code and publicizing false information online under the Computer-Related Crime Act. The complaint was related to a report by the Cross Cultural Foundation, Duay Jai Group, and the Patani Human Rights Network that documented 54 cases of torture and mistreatment of suspected separatist insurgents in military custody between 2004 and 2015. If convicted, the activists faced up to five years in prison and a 100,000 baht (US\$2,850) fine. On March 7, 2017, ahead of the United Nations Human Rights Committee review of Thailand's obligations under the International Covenant on Civil and Political Rights, the military announced it would end this legal action. But to date, the case is still proceeding.

Sirikan Charoensiri, the co-founder of the Thai Lawyers for Human Rights, has been charged with sedition and other criminal offenses that could result in at least 10 years of imprisonment. The junta initiated these lawsuits in retaliation for Sirikan's professional activities representing 14 student activists who were arrested on June 26, 2015 after staging peaceful protests in Bangkok calling for democracy and an end to military rule.

Recommendations

Prime Minister Prayut has spoken repeatedly in Thailand and at international forums about his government's commitment to return Thailand to democratic civilian rule. Maintaining Thailand's international reputation is a priority for the junta. To consider

these pledges to be serious and credible, you should stress that Thailand needs to take clear steps to respect human rights and restore civilian democratic institutions.

Australia should be prepared to publicly and privately call upon Prime Minister Prayut to immediately take the following actions:

- End the use of abusive and unaccountable powers under section 44 of the 2014 interim constitution;
- End restrictions on the rights to freedom of expression, association, and peaceful assembly;
- Lift the ban on political activities;
- Release all dissidents and others detained for peaceful criticism of the junta;
- Drop sedition charges and other criminal lawsuits related to peaceful opposition to the August 2016 constitution referendum;
- Transfer all cases against civilians from military courts to civilian courts that meet international fair trial standards; and
- Ensure a safe and enabling environment for human rights defenders to work – including by dropping criminal defamation lawsuits against them.

We appreciate your attention to our concerns and trust that you will raise them in your discussions with senior Thai officials. An end to human rights violations and restrictions of fundamental freedoms is vital to a genuine return to democratic civilian rule in Thailand.

We would be happy to provide further information on any of the issues or cases discussed in this letter.

Sincerely,

Elaine Pearson
Australia Director
Human Rights Watch

CC Paul Robilliard, Australian Ambassador to Thailand