



THAILAND

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Joint submission prepared by:

**FIDH - International Federation for Human Rights
Internet Law Reform Dialogue (iLaw)
Thai Lawyers for Human Rights (TLHR)**

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The **International Federation for Human Rights (FIDH)** is an international human rights NGO that unites 192 member organizations from 117 countries. Since its foundation in 1922, FIDH has been defending all civil, political, economic, social, and cultural rights set out in the Universal Declaration of Human Rights (UDHR).

The **Internet Law Reform Dialogue (iLaw)** is a Thai human rights NGO that engages with civil society groups and the general public in an effort to achieve democracy, freedom of expression, civil and political rights, and a fairer and more accountable system of justice in Thailand. Founded in 2009, iLaw strongly supports public participation in achieving these goals through campaigns for legal reforms.

Thai Lawyers for Human Rights (TLHR) is a coalition of human rights lawyers and defenders, formed immediately following the May 2014 coup d'état in Thailand. The coalition's aim has since been to raise awareness about human rights violations resulting from the imposition of martial law and military rule in the country. The organization runs a 24-hour hotline and uses the information gathered to disseminate public awareness and advice for those summoned or arrested. TLHR provides free litigation and legal assistance for vulnerable people whose rights have been affected by martial law and who do not have legal representatives.

This joint submission focuses on the following issues: legislation that is inconsistent with relevant international standards; attacks and harassment against human rights defenders; violations of the right to freedom of opinion and expression; violations of the right to freedom of peaceful assembly; the situation of children; and enforced disappearances.

Undemocratic Constitution enacted, repressive decrees still in force

1. During Thailand's second UPR, the government accepted two recommendations that called for inclusive and public debate on the draft Constitution and the referendum for its adoption. Both recommendations were not implemented.
2. Thailand's current Constitution, promulgated on 6 April 2017, was adopted as a result of a process that was neither participatory nor inclusive. The Constitution was drafted by a 21-member Constitution Drafting Committee appointed by the ruling military junta, the National Council for Peace and Order (NCPO), without any meaningful public consultation and participation. Such process was in breach of Article 25 of the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to take part in the conduct of public affairs.
3. The process that led to the adoption of the Constitution was also inconsistent with other obligations under the ICCPR, particularly under Articles 19 and 21, which guarantee the right to freedom of opinion and expression, and the right to freedom of peaceful assembly, respectively.
4. The lead-up to the referendum on the draft Constitution, held on 7 August 2016, was characterized by severe restrictions on these rights. Public gatherings of more than four people were prohibited under Head of NCPO Order 3/2015. At least 177 individuals faced charges under this order for organizing or participating in public events or other campaigns that called on voters to reject the draft Constitution. In addition, the 2016 Referendum Act contained provisions that criminalized the expression of criticism of the draft Constitution. At least 25 people were charged under the Referendum Act, with almost all defendants eventually being acquitted and one receiving a two-year suspended prison sentence of four months and a 20,000-baht (US\$663) fine.
5. During Thailand's second UPR, the government also accepted two recommendations that called for the new Constitution to be in line with the country's obligations under international law. However, the Constitution contains several key provisions that are inconsistent with Article 25 of the ICCPR because they ensure that polls do not reflect the will of the electors.
6. Under Article 269, a "transition period" from 2019 to 2024, allows for a 250-member Senate dominated by NCPO appointees. In addition, Article 272 of the Constitution stipulates that during the "transition period" the Prime Minister should be nominated by a majority vote of a joint session of both houses of Parliament (the Senate and the 500-member House of Representatives).
7. This provision paved the way for NCPO Head General Prayuth Chan-ocha to become the prime ministerial candidate of the military-backed Palang Pracharat Party (PPP) and then win the vote to become Prime Minister despite the PPP having only 118 elected members in the House of Representatives. On 5 June 2019, General Prayuth received a total of 500 votes from the members of the House of Representatives and the Senate. Of all 250 Senators present, 249 voted for General Prayuth, while the Senate Speaker abstained.
8. Attempts led by civil society to amend the Constitution were blocked by the junta-appointed Senators. In 2020, amid public criticism of the undemocratic Constitution, a movement emerged to promote constitutional reform through civic participation. Thai civil society launched a campaign to gather the minimum of 50,000 signatures required by the Charter to

propose its amendment to Parliament. In August and September 2020, a civil society coalition collected 100,732 signatures, and the coalition's representatives submitted the proposed draft amendments to Parliament on 22 September 2020. On 18 November 2020, the draft of Charter amendments proposed by civil society was rejected in Parliament due to insufficient support from Senators. Parliament overwhelmingly backed two other drafts proposed by various political parties, which enjoyed the government's support.

9. During Thailand's second UPR, the government received four recommendations that called for the repeal of Head of NCPO Order 3/2015, and an additional recommendation that called for the repeal of all NCPO orders that were inconsistent with Thailand's human rights obligations. The government stated that it was "not ready to accept these recommendations at this stage."
10. In the lead-up to the March 2019 general election, NCPO Head General Prayuth Chan-ocha repealed a number of decrees that unduly restricted the right to freedom of peaceful assembly and the right to freedom of association. Most notably, Head of NCPO Order 22/2018, issued on 11 December 2018, repealed Article 12 of Head of NCPO Order 3/2015, which banned political gatherings of more than four people and prescribes prison terms of up to six months or a 10,000-baht (US\$332) fine, or both, for violators. From April 2015 to December 2018, at least 428 individuals were charged under Order 3/2015 and at least 28 of them were found guilty of violating the order and sentenced to suspended prison sentences ranging from 45 days to four months, and fines ranging from 2,500 baht (US\$83) to 5,000 baht (US\$166).
11. In some cases, Thai courts allowed prosecutions for violation of Head of NCPO Order 3/2015 after its revocation. At the time of this submission, proceedings against at least 38 individuals, stemming from Head of NCPO Order 3/2015, are ongoing.
12. On 9 July 2019, General Prayuth issued Order 9/2019, which resulted in the repeal of 66 NCPO decrees. However, at least another 65 remained in effect.¹ Among the repressive decrees that remain in force are Orders 3/2015 and 13/2016. Article 6 of Order 3/2015 stipulates that authorities can summon individuals to report themselves to unrecognized places of detention and detain them without any judicial oversight for up to seven days in relation to the alleged commission of certain offenses. Similarly, Order 13/2016 grants authorities sweeping law enforcement powers to prevent and suppress certain crimes. Authorities can detain individuals up to seven days in unrecognized places of detention without judicial oversight.
13. The deprivation of liberty of persons for up to seven days in unrecognized places of detention, without judicial oversight, increases the risk of human rights abuses, including torture and enforced disappearance. The lack of judicial review of the deprivation of liberty is contrary to the rights to an effective remedy and to a fair trial, which are guaranteed by Articles 2, 9, and 14 of the ICCPR.

Recommendations:

- Ensure that the process of amending the 2017 Constitution is conducted in a participatory and inclusive manner, through genuine consultation of, and meaningful engagement with, civil society.
- Revoke all remaining NCPO decrees that are inconsistent with obligations under human rights treaties to which Thailand is a state party, including Head of NCPO Orders 3/2015 and 13/2016.
- Immediately drop all proceedings stemming from charges under Head of NCPO Order 3/2015.

Human rights defenders attacked, harassed, criminalized

14. During Thailand's second UPR, the government accepted six recommendations it received concerning the protection of human right defenders, including those that called for adequate investigations into all attacks perpetrated against them.
15. The government's commitment was inconsistent with the authorities' systematic attacks and harassment against human rights defenders during Thailand's second UPR cycle. Such attacks were particularly severe against pro-democracy activists.
16. Pro-democracy activist Sirawith Seritiwat was attacked by groups of unknown assailants on two separate occasions, on 2 and 28 June 2019, in Bangkok. As a result of the injuries sustained during the second attack, he was admitted to an intensive care unit. Another pro-democracy activist, Ekachai Hongkangwan, was physically attacked by unknown individuals at least seven times and his car was damaged in two arson attacks between January 2018 and May 2019 in Bangkok. In all but two incidents, authorities failed to identify perpetrators and hold them accountable.
17. Human rights defenders were also subjected to systematic criminalization - which included arbitrary arrests, prosecutions, and arbitrary detentions - for their work. Many of them face multiple prosecutions that include criminal charges of lèse-majesté and sedition and, if found guilty, long prison terms. For example, human rights lawyer and pro-democracy activist Anon Nampa faces a total of 21 lèse-majesté and sedition charges. Pro-democracy activists Parit Chiwarak, Panupong Chadnok, Somyot Prueksakasemsuk, Jatupat Boonpattaraksa, and Patiwat Saraiyaem face a total of 34, 16, four, three, and two lèse-majesté and sedition charges, respectively. All six human rights defenders were detained at various prisons pending trials at the time of this submission.
18. Women human rights defenders, who played a key role in organizing and leading the peaceful pro-democracy demonstrations in 2020, were systematically targeted by both state and non-state actors for their activism. They were subjected to the same types of human rights violations for exercising their freedoms of expression and peaceful assembly as male activists. However, they were also exposed to additional gender-based attacks and harassment.
19. Authorities criminalized their activism through the use of repressive laws and decrees that do not conform to international standards. For example, pro-democracy female activist Panusaya Sitijirawattanakul faces a total of 15 charges, including under Articles 112 and 116 of the Criminal Code, in connection with her participation in the peaceful protests. Ms. Panusaya was detained at Bangkok's Central Women's Correctional Institution pending trial, at the time of this submission.

20. Authorities also subjected women human rights defenders to frequent harassment, intimidation, and surveillance. This type of harassment and intimidation was extended to their family members as a way to discourage women human rights defenders from carrying out their work or participating in the protests. Women human rights defenders reported gender-specific attacks mostly taking the form of verbal abuse and online attacks and harassment directly aimed at them simply because of their gender and gender expression.

Recommendations:

- Conduct thorough, impartial, and effective investigations into attacks against human rights defenders and hold the perpetrators accountable.
- Ensure a safe and enabling environment for human rights defenders to exercise their rights and put an end to all acts of harassment, including at the judicial level, against them.
- Refrain from arresting, detaining, and prosecuting human rights defenders for the legitimate and peaceful exercise of their rights in accordance with international human rights instruments.
- Protect women human rights defenders from gender-specific attacks and other acts of harassment and intimidation perpetrated by both state and non-state actors, including online.
- Extend an official invitation and arrange a country visit for the UN Special Rapporteur on the Situation of Human Rights Defenders during the third UPR cycle.

Repressive laws enforced to unduly restrict the right to freedom of opinion and expression

21. During Thailand's second UPR, the government accepted 11 recommendations that called for the respect of the right to freedom of opinion and expression. However, these recommendations have not been fully implemented.
22. Thai authorities have continued to unduly restrict the right to freedom of opinion and expression through the enforcement of laws and decrees that are inconsistent with the country's obligations under international law, notably the ICCPR and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).
23. Legislation that is inconsistent with international human rights standards and breaches Thailand's obligations under international law include: Articles 112 (lèse-majesté), 116 (sedition), 326 (defamation), and 328 (libel) of the Criminal Code; and Article 14 of the Computer Crimes Act. In addition, Article 5 of Head of NCPO Order 3/2015, issued on 1 April 2015, has not been repealed and remains in force beyond the NCPO's dissolution in July 2019. Article 5 empowers the authorities to issue orders that prohibit "the propagation of news or the sale or distribution of any book publication or any other media which contains [...] information that is intentionally distorted to cause public misunderstanding that affects national security or public order."
24. During Thailand's second UPR, the government did not accept 14 recommendations to review, amendment, or repeal laws and decrees that were inconsistent with international standards concerning the right to freedom of opinion and expression.
25. Article 14 of the Computer Crimes Act is notably related to offenses that involve: (1) the import to a computer system of "forged" or "distorted" information "that is likely to cause damage to the public"; (2) "false computer data in a manner that is likely to damage the maintenance of national security, public safety, national economic security or public infrastructure serving national public interest or cause panic in the public"; and (3) "any computer data which is an offense about the security of the Kingdom or is an offense about

terrorism.” Individuals found guilty of violating Article 14 of the Computer Crimes Act face up to five years in prison or a 100,000 baht (US\$3,317) fine, or both.

26. The vague and sweeping definitions of offenses described by Article 14 of the Computer Crimes Act have been routinely used to criminalize the peaceful and legitimate expression of opinions (including criticism of the government and the Thai monarchy) online, particularly on social media platforms. Between May 2014 and April 2020, at least 239 individuals were charged under the Computer Crimes Act for expressing critical opinions about the NCPO, military authorities, and the monarchy.
27. Article 116 of the Criminal Code prescribes jail terms of up to seven years for individuals found guilty of expressing an “opinion or criticism in order: (a) to bring about a change in the laws or the government by the use of coercion or violence, (b) to create confusion or disaffection among the people to the point of causing unrest in the kingdom, or (c) to have people violate the law.”
28. During NCPO rule, from May 2014 to July 2019, at least 124 people were charged for violating Article 116. Most of these prosecutions stemmed from peaceful and legitimate criticism of the NCPO’s policies and actions. After the dissolution of the NCPO in July 2019, authorities continued to take legal action under Article 116. From July 2019 to March 2021, at least 105 individuals were charged with violating Article 116. During October 2020 alone, at least 46 people were charged under Article 116 in connection with cases stemming from speeches made by activists and other participants during pro-democracy protests.
29. Defamation provisions in the Criminal Code continued to be used against human rights defenders and journalists. For example, between 2016 and 2020, Thai poultry company Thammakaset filed a total of 37 criminal cases under Articles 326 and 328 of the Criminal Code against 22 defendants, including human rights defenders, workers, and journalists, for alleged defamation of the company. The complaints stemmed from the defendants’ documentation, communication, and advocacy in connection with labor rights violations allegedly committed by Thammakaset.
30. During Thailand’s second UPR, the Thai government did not accept seven recommendations that called for the repeal or amendment of Article 112 of the Criminal Code (lèse-majesté) and to end its abuse to limit freedom of expression. It also “noted” an additional recommendation that called for the abolition of mandatory minimum jail sentences under Article 112.
31. Article 112 of Thailand’s Criminal Code imposes jail terms for those who defame, insult, or threaten the King, the Queen, the Heir to the throne, or the Regent. Persons found guilty of violating Article 112 face prison terms of three to 15 years for each count. Any person can file a lèse-majesté complaint under Article 112. Amid Thailand’s ongoing political turmoil, individuals have used lèse-majesté complaints to attack political opponents.
32. During Thailand’s second UPR, authorities continued to arrest, detain, prosecute, and imprison individuals for alleged violations of Article 112. Approximately 50 people were arrested and 14 were sentenced to prison terms under Article 112. Thailand also recorded the two longest prison sentences ever imposed under Article 112. On 9 June 2017, the Bangkok Military Court found Wichai Thepwong guilty on 10 counts of lèse-majesté for posting photos and comments deemed defamatory to the monarchy on Facebook in December 2015. The court sentenced him to 70 years in prison, reduced to 35 years, in consideration of his guilty

plea. In January 2021, the Bangkok Criminal Court sentenced Anchan Preeleert to 87 years in prison on 29 counts of lèse-majesté over online posts. Her sentence was reduced to 43 years and six months, in consideration of her guilty plea. Overall, only four defendants, charged on blatantly outlandish lèse-majesté charges, were acquitted during the reporting period.

33. A first wave of arrests, prosecutions, and detentions under Article 112, which began following the May 2014 coup d'état, continued up to January 2018. In early 2018, the Office of Attorney General issued prosecutorial guidelines in order to curb the use of Article 112. This policy change might have been linked to the will of King Rama X, who, according to Prime Minister Prayuth Chan-ocha, had "mercy and asked that it [Article 112] not be used."
34. Instead of using Article 112, from February 2018 to October 2020, authorities resorted to Article 116 of the Criminal Code and Article 14 of the Computer Crimes Act to take legal action against individuals who express their criticism of the monarchy. During this period, several individuals were initially charged under Article 112 by the police. However, the charges were later changed to alleged violations of the Computer Crimes Act and Article 116 of the Criminal Code.
35. The second wave of lèse-majesté arrests, prosecutions, and detentions began in late November 2020, shortly after Prime Minister Prayuth stated that Article 112 would be among "all laws and articles" to be enforced against pro-democracy protesters, who had increasingly called for the reform of the monarchy.
36. From 24 November 2020 to 25 March 2021, at least 77 individuals were charged under Article 112. In the overwhelming majority of these cases, those charged were pro-democracy activists and protest participants who had made public comments on the Thai monarchy during protests or on social media platforms. As of 25 March 2021, at least 12 of them were detained pending trial. Some of them face multiple charges under Article 112 in connection with multiple cases. The criminalization of participants in the pro-democracy protest under Article 112 did not spare children. At least six minors were charged with lèse-majesté for the exercise of their right to freedom of expression in connection with the protests.
37. Lèse-majesté defendants awaiting trial were consistently denied their fundamental right to liberty. In many cases, courts repeatedly refused to release lèse-majesté defendants on bail and justified such decision arguing that defendants were a flight risk, might cause further harm, and could repeat the offense if they were to be freed. The courts' frequent denial of bail for alleged lèse-majesté violators is in violation of Article 9 of the ICCPR, which elucidates the principle that release must be the rule and detention the exception for individuals awaiting trial.

Recommendations:

- Amend Articles 326 and 328 of Thailand's Criminal Code with a view to abolish the criminal offenses of defamation and libel.
- Amend the Computer Crimes Act to remove prison terms for offenses stemming from the legitimate exercise of the right to freedom of opinion and expression.
- Immediately repeal Article 5 of Head of NCPO Order 3/2015.
- End arrests, prosecutions, and detentions under laws that are inconsistent with Thailand's international legal obligations with regard to the right to freedom of opinion and expression, including Articles 112, 116, 326, and 328 of the Criminal Code, and Article 14 of the Computer Crimes Act.

- Amend Article 112 of Thailand's Criminal Code to remove prison terms for offenses stemming from the legitimate exercise of the right to freedom of opinion and expression.
- Guarantee the right to a fair trial for lèse-majesté defendants, including the right to bail.
- Establish a moratorium on prosecutions under Article 112 of individuals who are merely exercising their fundamental right to freedom of opinion and expression.
- Immediately release all individuals imprisoned under Article 112 for the mere exercise of their fundamental right to freedom of opinion and expression.
- Reserve the sole power to file complaints under Article 112 to the Bureau of the Royal Household.
- Arrange a country visit for the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression during the third UPR cycle.
- Ratify the Optional Protocol to the ICCPR during the third UPR cycle.

Right to freedom of peaceful assembly curbed

38. During Thailand's second UPR, the government accepted two recommendations that called for the respect of the right to freedom of peaceful assembly. Despite this commitment, several laws and decrees imposed unnecessary and disproportionate restrictions on the exercise of the right to freedom of peaceful assembly. In addition, law enforcement officials often disregarded relevant international standards in the policing of assemblies.
39. After the revocation of Article 12 of Head of NCPO Order 3/2015 on 11 December 2018,² authorities invoked other laws and decrees to unduly limit the exercise of the right to freedom of peaceful assembly. Police consistently used the Public Assembly Act to place restrictions on political activities and peaceful public gatherings. In addition, the law was used numerous times by the authorities to interfere with public demonstrations, including intimidating or discouraging protest organizers and participants, closing protest venues, and monitoring protest activities.
40. The Public Assembly Act imposes overly burdensome requirements for organizers of protests and unnecessary restrictions on participants in a manner that is inconsistent with relevant international standards, including Article 21 of the ICCPR and the UN Human Rights Committee's General Comment No. 37. For example, public assembly organizers are required to provide police notice and information of the planned event at least 24 hours in advance. Failure to provide such notification results in the assembly being illegal. The Act bans demonstrations within a 150-meter radius of royal palaces, or within the compounds of Government House, Parliament, and courthouses, unless a specific area has been authorized and designated by the authorities. It also prohibits rallies from 6pm to 6am and bars protesters from blocking entrances or creating a disturbance at government offices, airports, seaports, train and bus stations, hospitals, schools, and embassies. Violators of the law face prison terms of up to five years and/or fines of up to 100,000 baht (US\$3,317).
41. From December 2018 to March 2020, at least 40 people were charged under the Public Assembly Act. The enforcement of the Public Assembly Act increased dramatically during the nationwide pro-democracy protests in 2020, when at least 67 people were charged under the Act.
42. Participants in pro-democracy protests also faced legal action as a result of sweeping restrictions that the government imposed in an effort to control the spread of COVID-19. Article 9 of the Emergency Decree on Public Administration in the State of Emergency ("Emergency Decree"), enacted on 26 March 2020, prohibits public assemblies and punishes violators with penalties of up to two years in prison or a fine of up to 40,000 baht (US\$1,327).

As of the date of this submission, the Emergency Decree remained in force. The ban on public assemblies was temporarily lifted on 1 August 2020 and re-imposed on 25 December 2020. A Severe State of Emergency - supposedly dictated by the political situation and unrelated to the COVID-19 pandemic - was imposed in Bangkok from 15 to 22 October 2020.

43. From March 2020 to March 2021, at least 393 individuals were charged for alleged violations of the Emergency Decree. In addition, the Public Assembly Act was used in conjunction with the Emergency Decree to press charges against protesters, despite the Act's explicit inapplicability during the period of enforcement of the Emergency Decree. At least 70 individuals were charged under both the Public Assembly Act and the Emergency Decree during the same period.
44. As the peaceful pro-democracy protests gathered momentum, demonstrators were met with unnecessary and disproportionate force by police on numerous occasions, resulting in dozens of injured among the demonstrators. Between October 2020 and March 2021, police used water cannons to disperse participants in five protests in Bangkok. Police also used tear gas against protesters in three of these protests and rubber bullets in two of them.
45. The violent dispersal of peaceful protests is inconsistent with various international standards related to the right to freedom of peaceful assembly, such as: Article 21 of the ICCPR; Article 15 of the Convention on the Rights of the Child; the UN Human Rights Committee's General Comment No. 37 on Article 21 of the ICCPR; the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; and the UN Human Rights Guidance on Less-Lethal Weapons in Law Enforcement.

Recommendations:

- Amend the Public Assembly Act to bring it into line international standards, particularly General Comment No. 37 on Article 21 of the ICCPR.
- Immediately revoke provisions of the Emergency Decree and other orders that impose sweeping restrictions on the right to freedom of peaceful assembly.
- Provide the necessary training for law enforcement authorities with regard to the application of the relevant international standards related to the policing of assemblies.
- Refrain from using disproportionate and unnecessary force in the policing of assemblies and ensure that authorities' use of force strictly complies with international standards, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Human Rights Guidance on Less-Lethal Weapons in Law Enforcement.
- Arrange a country visit for the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association during the third UPR cycle.

Children targeted for exercising their rights to freedom of expression and peaceful assembly

46. Students across schools nationwide took a leading role in the pro-democracy demonstrations that began in Thailand in February 2020. In addition to expressing criticism of the government and calling for the reform of the monarchy, students also campaigned for the reform of the country's outdated educational system and rules, including gender-biased school uniforms and haircuts. Student rights groups also organized protests at the Ministry of Education and various high schools in Bangkok and other provinces calling for an end to abuse and mistreatment by teachers and the protection of LGBTIQ students.
47. Throughout the protests in 2020, authorities subjected many student leaders, including children, to frequent harassment, intimidation, and surveillance. Students reported police went to their school or university to monitor their activities, asked for their identification from their teachers, or pressured people in the school's administration to take measures against them. Ahead of planned pro-democracy protests in Bangkok and elsewhere on 19 September 2020, authorities sent letters to heads of universities, summoning students to meetings where they were told to stop students demanding reform of the monarchy. They were also asked to draw up a list of students who could cause trouble.
48. Schools also imposed severe restriction on the students' rights to freedom of expression and peaceful assembly. Schools prohibited students from flashing the three-finger salute, wearing white bows, or participating in political activities. In some cases, teachers punished students who expressed support for the pro-democracy movement by hitting them, aggressively scolding them, or threatening them with expulsion. In other cases, school authorities sought to prevent students from organizing protests by declaring a holiday or organizing other competing activities on the days of planned demonstrations.
49. Student protests intensified after the temporary lifting of the ban on public gatherings under the Emergency Decree. Between 18 July and 10 October 2020, 74 protests occurred within the premises of educational institutions (43 on university campuses and 31 in high schools).
50. Authorities escalated legal actions against prominent student leaders in an attempt to stop students, including children, from participating in the protests. Between 18 July 2020 and 24 March 2021, at least 23 minors were prosecuted in connection with their participation in pro-democracy protests. Seventeen of them were detained by police without arrest warrants and/or without being informed of the reasons for their arrest. One faced charges of sedition (Article 116 of the Criminal Code), and six were charged with lèse-majesté (Article 112 of the Criminal Code). Eight were charged under various legal provisions, such as the Emergency Decree, the Severe State of Emergency in Bangkok, the Public Assembly Act, and the Communicable Diseases Act. Some were also charged and fined under the Maintenance of the Cleanliness and Orderliness Act.
51. In cases involving students under the age of 18, these measures violated the fundamental rights of children and Thailand's obligations under the Convention on the Rights of the Child (CRC), to which Thailand is a state party. Children's rights to freedom of expression and peaceful assembly are enshrined in Articles 13 and 15 of the CRC, respectively. In addition, under Article 37 of the CRC, the arrest, detention, or imprisonment of a child shall be treated as a measure of last resort and for the shortest period of time. Lastly, Article 3 of the CRC stipulates that the best interests of the child shall be a "primary consideration" in all actions concerning children undertaken by courts and administrative authorities.

Recommendations:

- Cease all acts of harassment and intimidation against children in connection with the exercise of their rights to freedom of opinion and expression and freedom of peaceful assembly.
- Stop the arrest and detention of children in connection with the exercise of their rights to freedom of opinion and expression and freedom of peaceful assembly.

Enforced disappearances remain unaddressed

52. During Thailand's second UPR, the government accepted all 10 recommendations concerning enforced disappearances, including recommendations that called for: the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED); the adoption of the Prevention and Suppression of Torture and Enforced Disappearance Bill; and addressing enforced disappearances. In addition, as part of its voluntary pledges and commitments, the government declared that Thailand would become a party to the ICPPED.
53. The commitments made by the government during Thailand's second UPR have remained unfulfilled. Ratification of the ICPPED remains pending. On 10 March 2017, the NCPO-appointed Parliament, the National Legislative Assembly (NLA), unanimously approved a resolution in favor of ratifying the ICPPED. However, at the time of this submission, the Thai government had not deposited the treaty with the UN Secretary-General, as required, or set a clear time frame to do so.
54. The government also continued in its failure to implement adequate measures to ensure prompt, thorough, credible, and impartial investigations into allegations of enforced disappearances. The Committee to Receive Complaints and Investigate Allegations of Torture and Enforced Disappearance, set up by the government in May 2017 and re-appointed in November 2019, failed to undertake any concrete and effective actions to fulfill its mandate.
55. In addition, "enforced disappearance" as defined in international standards, is still not recognized as a criminal offense in Thailand's legal system. The parliamentary approval of a draft Prevention and Suppression of Torture and Enforced Disappearance Act, which marked a positive step towards preventing torture, ill-treatment, and enforced disappearances in accordance with Thailand's international obligations, remains pending. The draft law was initially adopted by the Cabinet in December 2016. However, in February 2017, the junta-appointed Parliament, the NLA, sent the draft law back to the Cabinet for further review. On 23 June 2020, the Cabinet approved the Justice Ministry's latest draft of the Prevention and Suppression of Torture and Enforced Disappearance Act.
56. Despite the government's claim of having resolved several cases of enforced disappearances since the country's second UPR, as of May 2020, there were still 75 unresolved cases (including nine women) of enforced disappearances in Thailand in the database of the UN Working Group on Enforced or Involuntary Disappearances (WGEID). From May 2016 to May 2020, five new cases were transmitted to the WGEID.
57. Disappearances of activists continued to be reported in Thailand. In late August 2019, Od Sayavong, a 34-year-old Lao activist, disappeared in Bangkok. Od Sayavong was a member of "Free Lao", an informal group of Lao migrant workers and activists based in Bangkok and neighboring provinces that advocates for human rights and democracy in Laos. Od was last

seen on 26 August 2019, when he left his residence to join his co-workers for dinner at the restaurant where he was employed.

58. In late January 2019, Truong Duy Nhat, a Vietnamese political activist who had sought refuge in Thailand, was abducted. The blogger went missing on 26 January in Bangkok, to where he had fled from Vietnam to seek political asylum. It is suspected that Nhat was abducted by unknown individuals in Bangkok before being taken back to Vietnam against his will. In March 2019, he was revealed to be detained in a jail in Hanoi.
59. Thai authorities also failed to provide adequate international legal cooperation with regard to the disappearance of seven Thai political activists living in exile in neighboring countries between June 2016 and June 2020. Such cases include: Mr. Ittiphon Sukpaen, who went missing in Laos on 22 June 2016; Mr. Wuthipong Kachathamakul, who was abducted by a group of armed man in Vientiane, Laos, on 29 July 2017; Mr. Surachai Danwattananusorn, who was last seen in Vientiane, Laos, on 12 December 2018; Mr. Siam Theerawut, Mr. Chuchee Chivasut, and Mr. Kritsana Thapthai, who were arrested by Vietnamese authorities for illegal entry and using fake travel documents in early 2019; and Mr. Wanchalearm Satsaksit, who was abducted by unknown individuals in Phnom Penh, Cambodia, on 4 June 2020. The fate and whereabouts of all seven individuals remains unknown at the time of this submission.

Recommendations:

- Ratify the ICPPED during Thailand's third UPR cycle.
- Adopt the Prevention and Suppression of Torture and Enforced Disappearance Act during the third UPR cycle.
- Conduct thorough, impartial, and effective investigations into all cases of enforced disappearance in Thailand.
- Provide adequate international legal cooperation in cases of disappearances of Thai nationals in neighboring countries.

¹ Bangkok Post, PM issues final S44 order, 10 July 2019

² Article 12 of Head of NCPO Order 3/2015, which came into effect on 1 April 2015, banned political gatherings of more than four people and prescribed prison terms of up to six months or a 10,000 baht (US\$332) fine, or both, for violators.