



**FIDH – International Federation for Human Rights**

**Briefing paper**

## **Thailand: New monarch, old abuses - Lèse-majesté prosecutions under King Rama X**

On 1 December 2017, Thailand marks the one-year anniversary of King Maha Vajiralongkorn Bodindradebayavarangkun's accession to the throne as the country's new monarch, Rama X. He succeeded his long-reigning father, King Bhumibol Adulyadej, who died on 13 October 2016. In the first year of King Rama X's reign, arrests, prosecutions, and imprisonment under Article 112 of Thailand's Criminal Code (lèse-majesté) have continued unabated in Thailand. The ruling military junta, the National Council for Peace and Order (NCPO), has continued to abuse Article 112 to detain alleged violators and curb any discussion about the monarchy, particularly on online platforms.<sup>1</sup> This briefing paper examines key developments related to the ongoing abuse of lèse-majesté during the first year of King Rama X's reign.

### **Key figures about lèse-majesté under King Rama X**

<b>27</b>	Number of individuals arrested on lèse-majesté charges
<b>10</b>	Number of individuals sentenced to prison terms on lèse-majesté charges
<b>41%</b>	Percentage of lèse-majesté arrests for the exercise of the right to freedom of expression
<b>38</b>	Number of individuals currently serving prison terms for lèse-majesté
<b>14</b>	Age of the youngest person detained on lèse-majesté charges
<b>6</b>	Number of lèse-majesté suspects released without charge
<b>0</b>	Number of lèse-majesté defendants released on bail
<b>3</b>	Number of lèse-majesté defendants sentenced to prison terms by military courts
<b>27</b>	Number of ongoing lèse-majesté cases in military courts
<b>35</b>	Number of years of the harshest prison sentence imposed for lèse-majesté

<sup>1</sup> BBC, *Thai military warns against online contact against prominent critics*, 13 April 2017; Nation, *Drop hunt for plaque, junta tells activists*, 19 April 2017; Khaosod English, *Regime threatens Facebook with Computer Crime Act*, 12 May 2017; Reuters, *Thailand extends web controls from composers of illicit content to viewers*, 22 May 2017

## 27 arrested, 10 sentenced to jail for lèse-majesté

Despite increasing international pressure, the list of individuals incarcerated under Article 112 continued to grow. From 1 December 2016 to 28 November 2017, at least 27 individuals, including activists, critics of the monarchy, and political dissidents, were arrested for alleged violations of Article 112. In addition, 10 people were sentenced to lengthy prison terms. Almost half of the arrests since December 2016 stemmed from the dissemination of online material or expression of opinion perceived to be insulting to the monarchy on social media.

On 17 August 2017, Thai junta leader and Prime Minister General Prayuth Chan-ocha claimed that King Rama X said he did not want to see people being punished for lèse-majesté. Nevertheless, General Prayuth insisted that the law was necessary to protect the institution of the monarchy.<sup>2</sup> His statement was in response to the conviction of student activist Jatuphat Boonpataraksa aka 'Pai' of lèse-majesté [See below, *Imprisoned for sharing the King's biography*].

Authorities have continued to carry out arrests and detentions that consistently failed to follow due process for suspected lèse-majesté offenders. Eighteen of the 27 arrested for alleged violations of Article 112 were taken to the Nakhon Chaisri temporary detention facility inside the 11th Army Circle Base in Bangkok, where they were held incommunicado for several days before being charged or released.

### Vigilantism mars interim period (13 October - 30 November 2016)

The passing of King Bhumibol spurred a force of ultra-royalists to monitor the internet for anyone deemed to have insulted the late King. In the week that followed King Bhumibol's death, many Thai social media users called for vigilante action against people perceived to have made disrespectful comments about the late King or not dressed in black during the first 30 days of a year-long mourning period.<sup>3</sup> The notorious ultra-royalist group 'Rubbish Collection Organization' vowed to hunt down lèse-majesté offenders around the country by posting their identity online.<sup>4</sup> Numerous lèse-majesté complaints were filed by individuals dissatisfied with messages they saw on the internet, resulting in a spike in cases.<sup>5</sup> Within one month of the death of the late King, at least nine people were arrested for allegedly violating Article 112.<sup>6</sup> However, many people arrested during this period were released on bail by the courts – an extremely rare practice.

In the aftermath of the death of King Bhumibol, public mourning also led to a series of incidents involving violence and public shaming. Within two weeks of the King's passing, at least eight cases of individuals being physically attacked or being told to publicly apologize in front of portraits of King Bhumibol for defaming the monarchy were documented nationwide.<sup>7</sup> Many of the cases were the result of the online witch-hunt. In Chonburi Province, a man was assaulted by a furious crowd

<sup>2</sup> Nation, *Monarchy always shows mercy in lèse-majesté cases: Prayut*, 17 August 2017

<sup>3</sup> Khaosod English, *Calls for calm over 'witch hunt' concerns after HM King's death*, 17 October 2016

<sup>4</sup> Channel News Asia, *'Witch-hunts' against lèse-majesté offenders rise in Thailand after King's death*, 20 October 2016

<sup>5</sup> Reuters, *Thailand sees a jump in royal defamation cases after death of king*, 19 October 2016; Prachatai, *Lèse-majesté cases spike to 20 since King's death*, 28 October 2016

<sup>6</sup> Thai Lawyers for Human Rights, *One month after the King's passing, evaluation of conflicts and prosecutions under Article 112*, 15 November 2016 [in Thai]

<sup>7</sup> Khaosod English, *Phuket mob demands arrest of man for alleged royal defamation*, 15 October 2016; Khaosod English, *Phang Nga mob enraged by alleged royal defamation post*, 16 October 2016; Khaosod English, *Mob demands woman accused of royal defamation kneel before portrait*, 17 October 2016; Khaosod English, *Woman forced off Bangkok bus, slapped for allegedly insulting late king*, 18 October 2016; Khaosod English, *Chonburi man beaten by mob over royal defamation*, 18 October 2016; Daily News, *Angry mob surrounded shop in Rayong, hunting for man defaming the King*, 19 October 2017 [in Thai]; Manager Online, *Middle-aged woman sent to police for writing defaming messages in condolence book*, 20 October 2016 [in Thai]; iLaw, *Amornchotsingh: Had a fight caused from pink shirt*, 24 October 2016

and forced to kneel down in front of the late King's portrait and apologize for making sarcastic comments on Facebook about his death.<sup>8</sup> In Koh Samui, Surat Thani Province, a woman who had been arrested for criticizing the royal family online was forced to bow before the late King's portrait as demanded by a mob of 500 people gathered outside the police station.<sup>9</sup> Thai authorities, while urging people not to take matters into their own hands, vowed to pursue anyone who insulted the monarchy.<sup>10</sup>

Outside Thailand, Thais living abroad were also targeted by royalists for making offensive comments about the monarchy.<sup>11</sup> In Sweden, a group of Thai royalists went to the apartment of a Thai woman who had openly criticized the monarchy on social media and threatened her with violence.<sup>12</sup> The 'Rubbish Collection Organization' issued a call on social media for people to track down an anti-monarchist living in exile in Paris for making critical comments about the late King on



Facebook shortly after his death.<sup>13</sup> Two weeks after the passing of King Bhumibol, the junta said it had requested the extradition of 19 lèse-majesté suspects from seven countries.<sup>14</sup>

*A man is forced to prostrate in front of a portrait of King Bhumibol in Chonburi Province, before being arrested for lèse-majesté. © Khaosod English*

### Imprisoned for sharing the King's biography

On 3 December 2016, just two days after King Vajiralongkorn ascended the throne, authorities arrested student activist Jatuphat Boonpataraksa aka 'Pai' on charges of lèse-majesté over a Facebook post. Pai was the first person arrested and charged with lèse-majesté under the new King.

Pai was arrested for sharing a factually accurate *British Broadcasting Corporation (BBC)* profile of King Vajiralongkorn on Facebook.<sup>15</sup> He was released on bail shortly after his arrest, but his bail was later revoked by the Khon Kaen Provincial Court on 22 December 2016. The court ruled that Pai had made satirical comments about the authority and failed to delete his original Facebook post of the King's profile.<sup>16</sup> Pai was detained and repeatedly denied bail by the court.<sup>17</sup>

<sup>8</sup> Khaosod English, *Chonburi man beaten by mob over royal defamation*, 18 October 2016

<sup>9</sup> Khaosod English, *Mob demands woman accused of royal defamation kneel before portrait*, 17 October 2016

<sup>10</sup> BBC Thai, *Government to track down Article 112 offenders*, 16 November 2016 [in Thai]; Reuters, *Thai junta urges restraint after crowds mob royal insult suspects*, 17 October 2016; Nation, *Prayut warns against lèse-majesté posts*, 19 October 2016; Reuters, *Thai police chief says no room for royal insult in Thailand*, 26 October 2016

<sup>11</sup> Prachatai, *Ultra-royalists hunt overseas for Thai accused of lèse-majesté*, 25 October 2016

<sup>12</sup> Prachatai, *Ultra-royalists hunt overseas for Thai accused of lèse-majesté*, 25 October 2016

<sup>13</sup> Khaosod English, *Calls for calm over 'witch hunt' concerns after HM King's death*, 17 October 2016; Prachatai, *Ultra-royalists hunt overseas for Thai accused of lèse-majesté*, 25 October 2016

<sup>14</sup> BBC Thai, *Government to track down Article 112 offenders*, 16 November 2016 [in Thai]; Reuters, *Thai junta seeks extradition of royal insult suspects*, 25 October 2017

<sup>15</sup> Prachatai, *Pai Dao Din arrested for sharing BBC Thai article*, 3 December 2016

<sup>16</sup> Prachatai, *Court revokes bail of first lèse-majesté suspect under King Rama X*, 22 December 2016

<sup>17</sup> Thai Lawyers for Human Rights, *Pai Dao Din pleads guilty for Article 112 for sharing BBC Thai article, court sentences him to 5 years, reduced to 2 years and 6 months following his plea*, 15 August 2017 [in Thai]

On 15 August 2017, following a closed-door hearing, the Khon Kaen Provincial Court sentenced Pai to five years in prison on charges of violating Article 112. The sentence was halved to two years and six months in consideration of Pai's guilty plea.<sup>18</sup> To date, Pai is the only individual who has been arrested and prosecuted among the approximately 3,000 web users who shared the BBC profile of the King on Facebook.

### **New record-breaking lèse-majesté sentence**

Under King Rama X, Thailand recorded the longest prison sentence 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 Wichai to 70 years in prison, reduced to 35 years, in consideration of his guilty plea.<sup>19</sup>

### **Children not spared**

Under the reign of King Rama X, a 14-year-old minor became the youngest person ever to be arrested for lèse-majesté. On 25 May 2017, police in Khon Kaen held a press conference during which they reported that they had arrested nine people, including a 14-year-old boy, for setting fire to roadside portraits of the late King Bhumibol and King Vajiralongkorn in Baan Pai and Chonnabot Districts, Khon Kaen Province, on 3 and 13 May 2017, respectively.<sup>20</sup> The nine individuals were initially detained at Sri Patcharin Army Base, Khon Kaen Province, before being taken to the 11th Army Circle Base in Bangkok where they were held incommunicado for six days.<sup>21</sup> They were then sent back to Khon Kaen Province and held in custody at the Phon Provincial Prison for 48 days before being released.<sup>22</sup>

On 16 August 2017, the eight adults were rearrested and charged with multiple offenses, including lèse-majesté.<sup>23</sup> On 2 October, six were accused of vandalizing the portraits in May 2017. They initially pleaded guilty for arson (Article 217 of the Criminal Code) and destruction of public property (Article 358), but denied the lèse-majesté charge.<sup>24</sup> On 20 November, the six decided to plead guilty to the lèse-majesté charge. The verdict is scheduled to be delivered on 31 January 2018.<sup>25</sup>

The other two individuals were charged under Article 217 for preparing to burn a similar portrait of the late King Bhumibol in Pueai Noi District, Khon Kaen Province.<sup>26</sup> They pleaded guilty to all charges,

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<sup>18</sup> Prachatai, *Pai Dao Din pleads guilty, gets 2 years 6 months for royal defamation*, 15 August 2017

<sup>19</sup> Prachatai, *Military court breaks record with 35-year jail term for lèse-majesté*, 9 June 2017

<sup>20</sup> Manager Online, *Nine suspects arrested for burning Rama IX ceremonial arches in 2 districts in Khon Kaen Province, one still on the run*, 25 May 2016 [in Thai]; Prachatai, *Eight accused of royal defamation for burning royal arches*, 17 August 2017

<sup>21</sup> Thai Lawyers for Human Rights, *Burning of ceremonial arches case: detention of a 14-year-old child in military camp and ongoing illegal detentions*, 21 June 2017 [in Thai]

<sup>22</sup> Thai Lawyers for Human Rights, *Article 112 charge for 8 suspects in the case of burning of ceremonial arches, in addition to 4 initial charges*, 17 August 2017 [in Thai]

<sup>23</sup> Thai Lawyers for Human Rights, *Article 112 charge for 8 suspects in the case of burning of ceremonial arches, in addition to 4 initial charges*, 17 August 2017 [in Thai]; Prachatai, *Eight accused of royal defamation for burning royal arches*, 17 August 2017

<sup>24</sup> Thai Lawyers for Human Rights, *6 defendants in the case of burning of ceremonial arches pleaded guilty to arson, but not intended to insult the monarchy*, 3 October 2017 [in Thai]

<sup>25</sup> Thai Lawyers for Human Rights, *Defendants in the case of burning of ceremonial arches pleaded guilty to all charges*, 21 November 2017 [in Thai]

<sup>26</sup> Thai Lawyers for Human Rights, *Article 112 charge for 8 suspects in the case of burning of ceremonial arches, in addition to 4 initial charges*, 17 August 2017 [in Thai]

including lèse-majesté.<sup>27</sup> On 16 November, the Phon Provincial Court sentenced the two to five years in prison. The sentence was halved to two and a half years in consideration of their guilty plea.<sup>28</sup>

The 14-year-old boy was transferred to be treated under a separate system for juvenile offenders. No information is available on whether he has been released or is still detained.<sup>29</sup>

### **Human rights lawyer faces 171 years in prison**

A prominent human rights lawyer faces up to 171 years in prison if convicted of lèse-majesté and sedition. On 29 April 2017, human rights lawyer Prawet Prapanukul was arrested at his home in Bangkok for alleged violation of Article 112. Military personnel took him to the Nakhon Chaisri temporary detention facility inside the 11th Army Circle Base in Bangkok, where he was detained incommunicado for five days. On 3 May 2017, Prawet was charged with 10 counts of lèse-majesté and three counts of sedition (Article 116 of the Criminal Code) for comments he posted on Facebook regarding the monarchy. If convicted on all counts, Prawet faces a maximum penalty of 171 years.<sup>30</sup> Prawet has been held in pre-trial detention at the Bangkok Remand Prison since 3 May.<sup>31</sup> The court has refused to release him on bail.<sup>32</sup>

On 18 September 2017, Prawet wrote a statement declaring that he would neither attend court proceedings nor authorize a lawyer to represent him. He challenged the legitimacy of the court, which he accused of being partial in cases related to alleged offenses against the monarchy.<sup>33</sup>

### **Charged over alleged insult to 16th century King**

The absurd and overzealous enforcement of lèse-majesté has been stretched to cover criticism of a King who died more than 400 years ago. On 9 October 2017, police charged renowned Thai scholar and lèse-majesté critic Sulak Sivaraksa with violating Article 112 for his comments regarding King Naresuan, who ruled over the Ayutthaya Kingdom from 1590-1605. The comments were made during a conference held on 5 October 2014 at Thammasat University in Bangkok. In his speech, Sulak criticized the personality of King Naresuan and questioned whether the King's heroic elephant battle had actually taken place.<sup>34</sup> Two retired military officers initially filed a lèse-majesté complaint against him on 16 October 2014 at Bangkok's Chanasongkram Police Station.<sup>35</sup> The prosecutor will announce whether to proceed with the case against Sulak on 7 December 2017. If indicted, his case will be brought before the Bangkok Military Court.<sup>36</sup>

### **Trials in military courts ongoing**

In the year since King X ascended the throne, military tribunals continued to try individuals and impose lengthy prison sentences for violations of Article 112. Since 1 December 2016, Thai courts have convicted 10 individuals for lèse-majesté. Three of these 10 individuals were tried and

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<sup>27</sup> Thai Lawyers for Human Rights, *6 defendants in the case of burning of ceremonial arches pleaded guilty to arson, but not intended to insult the monarchy*, 3 October 2017 [in Thai]

<sup>28</sup> Thai Lawyers for Human Rights, *Two-and-a-half-year imprisonment for attempting to burn a ceremonial arch in Khon Kaen*, 16 November 2017 [in Thai]

<sup>29</sup> Thai Lawyers for Human Rights, *Article 112 charge for 8 suspects in the case of burning of ceremonial arches, in addition to 4 initial charges*, 17 August 2017 [in Thai]

<sup>30</sup> Prachatai, *Court accepts charges against lawyer facing 50 years in jail for lèse-majesté*, 26 July 2017

<sup>31</sup> Reuters, *Thai rights lawyer faces up to 150 years in prison for royal insult*, 4 May 2017

<sup>32</sup> Prachatai, *Bail denied to human rights lawyer facing up to 50 years jail*, 12 May 2017

<sup>33</sup> Prachatai, *Human rights lawyer accused of lèse-majesté defies authority of the court*, 18 September 2017

<sup>34</sup> Prachatai, *Police press royal defamation charge for comment on ancient King*, 9 October 2017

<sup>35</sup> Prachatai, *Renown royalist Saluk sued for lèse-majesté for defaming ancient king*, 7 October 2014

<sup>36</sup> Prachatai, *Police press royal defamation charge for comment on ancient King*, 9 October 2017

convicted by military courts. As of 28 November 2017, there were a total of 27 ongoing lèse-majesté cases in military courts.<sup>37</sup> To date, the government has not taken any measures to transfer the pending cases to civilian courts, despite numerous recommendations by human rights monitoring mechanisms. Trials of civilians in military courts have led to further violations of human rights, including the right to liberty and the right to a fair trial.

### **Denial of bail for lèse-majesté defendants continues**

The chances for lèse-majesté defendants to be released on bail remain slim. None of the individuals arrested for alleged violation of Article 112 after King Rama X ascended the throne in December 2016 have been granted bail.<sup>38</sup> However, six of the 27 lèse-majesté suspects arrested were released without charge.

Since the May 2014 coup, Thai courts have systematically denied bail to lèse-majesté defendants and subjected them to lengthy periods of pre-trial detention.

### **Calls mount for amendment of Article 112, release of lèse-majesté detainees**

Since December 2016, various United Nations (UN) human rights bodies have continued to express their concern over the prosecutions, arbitrary detentions, and lengthy prison sentences under Article 112. They have repeatedly called for the amendment of Article 112 and the release of lèse-majesté detainees.

- **7 February 2017:** UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression David Kaye called on the Thai government to cease the use of the lèse-majesté provision as a political tool to stifle critical speech. Kaye reiterated that lèse-majesté was incompatible with international human rights law and urged the authorities to repeal Article 112.<sup>39</sup>
- **28 March 2017:** After reviewing Thailand's second periodic report, the UN Human Rights Committee (CCPR) issued its Concluding Observations, in which it expressed concern over the "extreme sentencing practices" for those found guilty of lèse-majesté. The CCPR specifically called for the review of Article 112 to bring it into line with Article 19 of the International Covenant on Civil and Political Rights (ICCPR). The committee also reiterated that the imprisonment of persons for exercising their right to freedom of expression violated Article 19.<sup>40</sup>
- **5 May 2017:** Acting regional representative of the UN Office of the High Commissioner for Human Rights (OHCHR) Regional Office for South-East Asia Laurent Meillan stressed that the implementation of Article 112 was contrary to the fundamental right to freedom of opinion and expression. Meillan urged the Thai government to end the practice of the arbitrary detention of political activists charged with lèse-majesté and recommended that Thailand immediately bring its legislation and practices in compliance with the ICCPR.<sup>41</sup>

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<sup>37</sup> As a result of NCPO Announcement 37/2014, issued on 25 May 2014, the jurisdiction over lèse-majesté cases was transferred from civilian to military courts. While the NCPO Announcement was revoked by NCPO Order 55/2016, issued on 12 September 2016, lèse-majesté offenses committed prior to this date remain under the jurisdiction of military courts.

<sup>38</sup> Jatuphat Boonpataraksa was the only person who was released on bail, but his bail was revoked shortly after.

<sup>39</sup> OHCHR, *Thailand: UN rights expert concerned by the continued use of lèse-majesté prosecutions*, 7 February 2017

<sup>40</sup> CCPR, *Concluding observations on the second periodic report of Thailand*, 25 April 2017, UN Doc. CCPR/C/THA/CO/2, Paras. 37 and 38

<sup>41</sup> OHCHR, *UN human rights office calls on Thailand to end arbitrary arrests and detentions of political activists*, 5 May 2017

- **13 June 2017:** Spokesperson for the UN High Commissioner for Human Rights Rupert Colville said the OHCHR was “deeply troubled” by the high rate of prosecutions and the courts’ persistence in handing down disproportionate sentences for lèse-majesté offenses. The OHCHR called for the Thai government to immediately amend the lèse-majesté law to bring it into line with international human rights standards and to review all cases brought under Article 112.<sup>42</sup>
- **5 July 2017:** During Thailand’s review under the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), CEDAW Committee Expert Rosario Manalo commented that there was a “tendency to abuse lèse-majesté” to arrest protesters and perceived dissidents.<sup>43</sup>
- **24 August 2017:** The UN Working Group on Arbitrary Detention (WGAD) issued two opinions that determined that the detentions of two lèse-majesté detainees, Sasiphimon Patomwongfangam and Thiansutham Sutthijitseranee, were arbitrary.<sup>44</sup> The WGAD requested that the Thai government release the detainees and accord them compensation for the arbitrary detention to which they have been subjected. The WGAD also expressed its “grave concern” about the pattern of arbitrary detention in lèse-majesté cases and recalled that “under certain circumstances, widespread or systematic imprisonment or other severe deprivation of physical liberty in violation of the fundamental rules of international law, may constitute crimes against humanity.” With the cases of Sasiphimon and Thiansutham, there are now six people who have been convicted of lèse-majesté whose deprivation of liberty has been declared arbitrary by the WGAD.<sup>45</sup>
- **6 October 2017:** During a public lecture at the Foreign Correspondents’ Club of Thailand (FCCT) in Bangkok, UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression David Kaye said lèse-majesté prosecutions in Thailand were “inconsistent with international law and should be stopped.” Kaye also reiterated that Article 112 “should be repealed.”<sup>46</sup>

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<sup>42</sup> OHCHR, *Press briefing note on Thailand*, 13 June 2017

<sup>43</sup> CEDAW, *Summary record of the 1504th meeting, held at the Palais des Nations, Geneva, on Wednesday, 5 July 2017, at 10 a.m.*, 14 July 2017, UN Doc. CEDAW/C/SR.1504

<sup>44</sup> UN Human Rights Council, *Opinions adopted by the Working Group on Arbitrary Detention at its seventy-ninth session, 21-25 August 2017 – No.51/2017 (Thailand)*, 13 October 2017, UN Doc. A/HRC/WGAD/2017/51; UN Human Rights Council, *Opinions adopted by the Working Group on Arbitrary Detention at its seventy-ninth session, 21-25 August 2017 – No.56/2017 (Thailand)*, 13 October 2017, UN Doc. A/HRC/WGAD/2017/56

<sup>45</sup> In addition to Sasiphimon and Thiansutham, two more lèse-majesté detainees whose deprivation of liberty has been declared arbitrary by the WGAD, Pongsak Sriboonpeng and Somyot Phruksakasemsuk, remain behind bars. Two other lèse-majesté detainees, Patiwat Saraiyaem aka ‘Bank’ and Pornthip Munkong aka ‘Golf’, were released under a royal amnesty on 12 and 27 August 2016, respectively. Their detention had also been declared arbitrary by the WGAD.

<sup>46</sup> FIDH, *UN expert calls for end to lèse-majesté prosecutions amid more arbitrary detentions*, 10 October 2017