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HRW – Human Rights Watch

World Report 2018 - Thailand

Thailand’s National Council for Peace and Order (NCPO) junta failed in 2017 to keep its repeated promises made at the United Nations and elsewhere to respect human rights and restore democratic rule. The government announced the national human rights agenda in November, but did not end repression of civil and political liberties, imprisonment of dissidents, and impunity for torture and other abuses.

Sweeping, Unchecked, and Unaccountable Military Powers

Section 44 of the 2014 interim constitution allows Prime Minister Gen. Prayuth Chan-ocha, in his concurrent position as NCPO chairman, to wield absolute power without oversight or accountability. The 2017 constitution, promulgated in March, endorses the continuance of this power, thereby guaranteeing that both the NCPO and officials operating under its orders cannot be held accountable for their rights violations. An unelected Senate and other elements of the new constitution lay the foundations for prolonged military control even if the junta fulfills its promise to hold elections in November 2018.

Freedom of Expression

Media outlets face intimidation, punishment, and closure if they publicize commentaries critical of the junta and the monarchy, or raise issues the NCPO considers to be sensitive to national security—including the repression of basic rights.

Media outlets that refused to fully comply, including Voice TV, Spring News Radio, Peace TV, and TV24, were temporarily forced off the air in March, April, August, and November respectively. These stations were later allowed to resume broadcasting when they agreed to practice self-censorship, either by excluding outspoken commentators or avoiding political issues altogether.

In August, government officials charged prominent academic Dr. Chayan Vaddhanaphuti and four other participants at the International Conference on Thai Studies, held in August in Chiang Mai province, with violating the NCPO ban on public assembly by more than five people. The real reason for the charges appears to have

been academic discussions that the junta deemed critical of military rule, and the fact that some participants took photos of themselves holding messages criticizing the military's heavy-handed monitoring of proceedings.

On November 27, Thai security forces violently dispersed a peaceful protest in Songkhla province and stopped protesters from submitting a petition to General Prayuth against the construction of a coal-fired power plant. At least 16 protest leaders were arrested.

The junta continued to use sedition (article 116 of the criminal code) and the Computer-Related Crime Act (CCA) to criminalize criticism and peaceful opposition to military rule. Since the 2014 coup, at least 66 people have been charged with sedition. In August, authorities charged veteran journalist Pravit Rojanaphruk and two prominent politicians—Pichai Naripthaphan and Watana Muangsook—with sedition and violating the CCA for their Facebook commentaries about Thailand's political and economic problems.

Thailand's revised CCA, which became effective in May, provides the government with broad powers to restrict free speech and enforce censorship. The law uses vague and overbroad grounds for the government to prosecute any information online that it deems to be “false” or “distorted,” including allegations against government officials regarding human rights abuses. Even internet content that is not found to be illegal under the act can be banned if a government computer data screening committee finds the information is “against public order” or violates the “good morals of the people.”

People charged with *lese majeste* (article 112 of the penal code, insulting the monarchy) are systematically denied bail and held in prison for months or years while awaiting trial. In August, after eight months of pre-trial detention, prominent student activist Jatupat (Pai) Boonphattharaksa was sentenced to two years and six months in jail for posting on his Facebook page a critical BBC Thai profile of Thailand's new king, Maha Vajiralongkorn Bodindradebayavarangkun.

Since the coup, authorities have arrested at least 105 people on *lese majeste* charges, mostly for posting or sharing critical commentary online. Some have been convicted and sentenced to decades of imprisonment, including a man sent to prison in June for 35 years (a 50 percent reduction of the original sentence because he confessed to the alleged crime) based on 10 critical Facebook posts.

Secret Military Detention, Torture, and Military Courts

Under NCPO Orders 3/2015 and 13/2016, military authorities can secretly detain people for a wide range of offenses, and hold them for up to seven days without charge, access to lawyers, or any safeguards against mistreatment. The government also regularly uses military detention, in which abuses during interrogation occur with impunity, in its counterinsurgency operations against suspected separatist insurgents in the southern border provinces of Pattani, Yala, and Naradhiwat.

The NCPO in 2017 rejected calls by human rights groups to disclose information about persons held in secret military detention, and summarily dismissed all allegations that soldiers tortured detainees. The junta did not move 369 cases (involving the prosecution of approximately 1,800 civilians) out of military courts and into civilian courts as required by international law.

The NCPO continued to summon members of the opposition Pheu Thai Party and the United Front for Democracy Against Dictatorship (UDD), as well as anyone accused of opposing military rule, for “attitude adjustment.” Failure to report to the junta’s summons is considered a criminal offense.

Enforced Disappearances

Since 1980, the UN Working Group on Enforced or Involuntary Disappearances has recorded 82 cases of enforced disappearance in Thailand. Many of these cases implicated government officials, including the enforced disappearances of prominent Muslim lawyer Somchai Neelapaijit in March 2004 and ethnic Karen activist Por Cha Lee “Billy” Rakchongcharoen in April 2014. None had been resolved at time of writing.

In July, Thai security officials were reportedly involved in the abduction of exiled anti-monarchy activist Wuthipong “Ko Tee” Kachathamakul in Laos. Police did not make any progress in investigating what happened to land rights activist Den Khamlae, another suspected victim of enforced disappearance who went missing near his home in Chaiyaphum province in April 2016.

Thailand signed the International Convention for the Protection of All Persons from Enforced Disappearance in January 2012, but has yet to ratify the treaty. The penal code still does not recognize enforced disappearance as a criminal offense. In February, the junta-appointed National Legislative Assembly suddenly suspended its consideration of the Prevention and Suppression of Torture and Enforced Disappearance Bill, and the government still has not clarified whether the bill will be reintroduced.

The government-appointed Committee to Receive Complaints and Investigate Allegations of Torture and Enforced Disappearance is an administrative body with little authority or political will to seriously act in cases. It falls far short of what can be considered to be an adequate substitute for domestic legislation criminalizing torture, ill-treatment, and enforced disappearance.

Lack of Accountability for Politically Motivated Violence

In spite of evidence showing that soldiers were responsible for most casualties during the 2010 political confrontations with the UDD, or “Red Shirts,” that left at least 90 dead and more than 2,000 injured, no military personnel or officials from the government of

former Prime Minister Abhisit Vejjajiva have been charged for killing and wounding civilians at the time. On the other hand, numerous UDD leaders and supporters faced serious criminal charges for their street protests in 2010.

In August, the Supreme Court's Criminal Division for Political Office Holders acquitted former Prime Minister Somchai Wongsawat and other senior government officials for their roles in the violent crackdown on the People's Alliance for Democracy (PAD) protesters in October 2008, which left two people dead and more than 400 injured.

There was no significant progress during the year in investigating and prosecuting alleged abuses and criminal offenses committed by the People's Democratic Reform Committee (PDRC) during political confrontations in Bangkok in 2013 and 2014.

Human Rights Defenders

The killings of more than 30 human rights defenders and other civil society activists since 2001 remained unresolved.

Government pledges to develop measures to protect human rights defenders remained unfulfilled. Meanwhile, Thai authorities and private companies continued to frequently use defamation lawsuits and other criminal charges to retaliate against individuals reporting human rights violations.

Authorities charged Sirikan Charoensiri of the Thai Lawyers for Human Rights (TLHR) with sedition and other criminal offenses that could result in at least 10 years' imprisonment. The junta initiated these lawsuits in retaliation for her professional activities representing 14 student activists arrested in June 2015 after staging peaceful protests in Bangkok.

In March 2017, in response to domestic and international pressure, the Internal Security Operations Command announced it would end its legal action against Somchai Homlaor, Pornpen Khongkachonkie, and Anchana Heemmina, who accused the military of torturing suspected separatist insurgents in the southern border provinces. On October 24, prosecutors informed the police that the case had formally been dropped.

In August, the National Legislative Assembly approved the revised law on the National Human Rights Commission of Thailand that will seriously weaken the agency and strip away its independence, thus transforming it into a de facto government mouthpiece.

Violence and Abuses in Southern Border Provinces

Since January 2004, Barisan Revolusi Nasional (BRN) insurgents have committed numerous violations of the laws of war. More than 90 percent of the 6,800 people killed in the ongoing armed conflict in Thailand’s southern border provinces have been civilians.

In April, BRN issued a statement opposing a Malaysia-brokered peace dialogue between the Thai government and separatist groups in the loose network of Majlis Syura Patani. BRN insurgents pointed to abusive, heavy-handed tactics by government security forces to recruit new members to the insurgency and justify their acts of violence. In May, suspected insurgents detonated two bombs at Big C Supermarket in Pattani province, injuring at least 61 people, including children.

The government has not prosecuted members of its security forces responsible for illegal killings and torture against ethnic Malay Muslims. In many cases, Thai authorities provided financial compensation to the victims or their families in exchange for their agreement not to pursue criminal prosecution of officials.

Refugees, Asylum Seekers, and Migrant Workers

Thailand has not acceded to the 1951 Refugee Convention and its 1967 protocol. Thai authorities continued to treat asylum seekers, including those whom the United Nations recognizes as refugees, as illegal migrants subject to arrest and deportation.

In May, the government transferred M. Furkan Sökmen—a Turkish educator allegedly connected to the Gulen movement, which Turkey blames for orchestrating the 2016 coup attempt—to the custody of Turkish authorities despite UN warnings that he would face persecution and serious rights violations if returned to Turkey.

In September, the Internal Security Operations Command (ISOC) announced a policy to push back Rohingya refugees seeking to enter Thailand by boat. The government also refused to allow the UN Refugee Agency, UNHCR, to conduct refugee status determinations for Rohingya asylum seekers, and planned to put those who landed in indefinite detention in squalid immigration lockups. Over 60 ethnic Uighurs from China have been held in indefinite detention since March 2014.

Migrant workers from Burma, Cambodia, Laos, and Vietnam are vulnerable to physical abuses, indefinite detention, and extortion by Thai authorities; severe labor rights abuses and exploitation by employers; and violence and human trafficking by criminals who sometimes collaborate with corrupt officials.

Migrant workers remained fearful of reporting abuses to Thai authorities due to lack of effective protection. In June, 14 Burmese migrant workers were brought to court on criminal defamation charges after they filed a complaint with the National Human Rights Commission of Thailand alleging that their employer—Thammakaset Company Limited, a chicken farm in Lopburi province—violated their rights.

When the government in June enacted the Decree Concerning the Management of Foreign Workers’ Employment, tens of thousands of registered and unregistered migrant workers from Cambodia, Burma, Laos, and Vietnam fled Thailand, fearing arrest and harsh punishment.

The government declared that combating human trafficking was a national priority, including by enforcing the Human Trafficking Criminal Procedure Act. In July, the Bangkok Criminal Court sentenced 62 people—including former army advisor Lt. Gen. Manas Kongpan—to prison terms of up to 94 years for trafficking and mistreatment of Rohingya migrants. However, improvements in suppressing human trafficking in the fishing sector were still limited.

The US State Department maintained Thailand on its Tier 2 (Watch List) in its annual Trafficking in Persons (TIP) Report. The European Commission raised concerns about human trafficking and forced labor on Thai fishing boats and put Thailand on formal notice for possible trade sanctions connected to illegal, unreported, and unregulated fishing.

Anti-Narcotics Policy

The government failed to pursue criminal investigations of extrajudicial killings related to anti-drug operations, especially the more than 2,800 killings that accompanied then-Prime Minister Thaksin Shinawatra’s “war on drugs” in 2003.

There has been no progress in the government’s plan to remove methamphetamine from category 1, the most serious classification in the controlled substance list, in order to ease prison overcrowding and facilitate drug users’ access to rehabilitation. The Interior Ministry and military continued to operate boot camp-style forced rehabilitation of drug users.

Key International Actors

The UN and Thailand’s major allies urged the junta to respect human rights and return the country to democratic civilian rule through free and fair elections. During the Human Rights Committee’s review of Thailand’s obligations under the ICCPR in March, the Office of the UN High Commissioner for Human Rights (OHCHR), as well as many foreign governments and human rights groups, expressed concerns regarding violations of fundamental rights and freedoms since the coup.

US President Donald Trump received Prime Minister Prayuth at the White House on October 2 but did not publicly raise rights concerns. The US military sought to restore its previous close engagement with Thailand’s military.

Australia’s foreign minister and defense minister separately visited Thailand in August; neither publicly mentioned human rights concerns.

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