

CONFIDENTIAL



No. 52101/ 384

PERMANENT MISSION OF THAILAND
GENEVA

S/2011

24 June 2011

Dear Mr. La Rue and Ms. Sekaggya,

I wish to refer to your joint letter dated 10 June 2011, expressing concerns on 4 cases of alleged human rights violations related to the use of article 112 of the Thai Penal Code in conjunction with the Computer Crimes Act of 2007, namely the case of Mr. Somsak Jeamteerasakul; Mr. Thanthawut Taweewarodomkul; Mr. Somyot Pruksakasemsuk; and Mr. Chanin Klaiklueng, respectively. I wish to inform you that your communication has been duly forwarded to the authorities concerned in Thailand for further examination and responses.

While we fully understand your concerns expressed in the letter and on other occasions including Mr. La Rue's report to the recent session of the Human Right Council, I wish to reiterate, once again, that as a democratic country, Thailand upholds the rights to freedom of opinion and expression as stipulated under the Thai Constitution and according to our international obligations. However, it is equally important to understand the national context in which institution of the monarchy has deep historical and cultural roots and has been the main pillar of stability of the Thai society.

Mr. Frank La Rue,

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression;

Ms. Margaret Sekaggya,

Special Rapporteur on the situation of human rights defenders;

Special Procedures Branch,
Office of the High Commissioner for Human Rights,
Palais des Nations,
1211 GENEVA.

OHCHR REGISTRY

27 JUN 2011

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Allegation letter UA G/SO 214 (67-17) G/SO 214 (107-9) THA 5/2011

I wish to also point out that cases cited in your letter are not about freedom of opinion and expression but rather about deliberate act aiming at politicizing the role of the monarchy and exploiting freedom of opinion and expression for political purposes and creating division in the Thai society. It is in this context that the authorities concerned are compelled to take action under our law. The incidents in Thailand last year that we all have witnessed clearly demonstrate the tragic consequences of misuses of media and the rights to freedom of expression and opinion, among others, on sensitive matters involving the monarchy, to incite hatred and violence among people which unfortunately led to social and political turmoil.

It must also be reminded that as the King and other members of the Royal Family are above politics, the Constitution does not allow them to comment or act in their own defence like the general public.

Having said that, it should further be pointed out that action taken by Thai authorities have to follow due process of law. In this connection, a special advisory committee was established at the end of 2009 to provide advice upon request to the police and the public prosecutor on cases related to lese-majeste, with the aim to ensure thorough consideration and its application in accordance with the rule of law.

You would also note that court approval must be granted before any action can be taken which provides a safeguard against its abusive application. This is clearly evident in the case of Mr. Jeamteerasakul in which the complaint submitted to the court was rejected and thereby no legal action has been taken against him. Nevertheless, the Royal Thai Government acknowledges the concerns expressed by Mr. Homayoun Alizadeh, the representative of the OHCHR's Regional Office for South East Asia, during his meeting with Dr. Panitan Wattanayagorn, Acting Spokesperson of the Prime Minister, in May, on the allegation regarding incidents of harassment against Mr. Jeamteerasakul which will be further investigated by relevant authorities in Thailand.

In the case of Mr. Somyot Pruksakasemsuk, it is understood that the court may have rejected the request for bail on the ground to prevent Mr. Pruksakasemsuk from fleeing the country as he was arrested in Aranyaprethet while trying to cross the border to Cambodia.

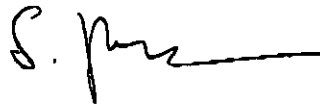
In all, we take due note of your concerns on these 4 specific cases, all of which will be closely examined by the authorities concerned. We also take note of your concern on the over all enforcement of the Penal Code and the Computer Crimes Act as well as your recommendation to repeal or amend these laws to guarantee the rights and freedom of expression. In this regard, the special advisory committee has been tasked to study other countries' laws and

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practices and consider how to make further improvements while promoting public understanding about the law with a view to reducing instances of lese-majeste complaints. The Computer Crimes Act is currently undergoing amendment, a process in which the Government supports the need to gather more views from all stakeholders in the society, including Internet service providers and web hosting service providers.

On a final note, I hope you find the above preliminary response useful for your consideration of the matter. The Permanent Mission of Thailand remains at your disposal should you wish for any further clarifications or inquiries.

Sincerely yours,



(Sihasak PHUANGKETKEOW)
Ambassador and Permanent Representative