



No. 52101/ 804

PERMANENT MISSION OF THAILAND
5, Rue Gustave-Moynier
1202 GENEVA

10 December B.E. 2557 (2014)

Dear Mr. Andenas, Mr. Kaye, Mr. Kiai, Mr. Puras, Mr. Forst and Ms. Knaul,

I wish to acknowledge the receipt of your joint letter ref. UA THA 13/2014 dated 8 December 2014 regarding allegations of charges against, detention or conviction of 21 persons for alleged crimes of lèse-majesté, including four persons whose cases are under the jurisdiction of military courts.

While your communication has been duly forwarded to the authorities concerned in Thailand for further consideration, I wish to reiterate that Thailand attaches great importance to freedom of expression. Nevertheless, there is a certain degree of restriction in order to protect the rights or reputations of others and to uphold national security and public order. The lèse-majesté law gives protection to the rights or reputations of the King, the Queen, the Heir-apparent, or the Regent in a similar way libel law does for commoners. It is not aimed at curbing people's rights to freedom of expression nor the legitimate exercise of academic freedom including debates about the monarchy as an institution.

Mr. Mads Andenas,

Chair-Rapporteur of the Working Group on Arbitrary Detention,

Mr. David Kaye,

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

Mr. Maina Kiai,

Special Rapporteur on the rights to freedom of peaceful assembly and of association,

Mr. Dainius Puras,

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Mr. Michel Forst,

Special Rapporteur on the situation of human rights defenders,

Ms. Gabriela Knaul,

Special Rapporteur on the independence of judges and lawyers,

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The law is also put in place to protect the institution as its noblesse oblige prevents it from seeking legal redress against its subjects for defamatory remarks. Nevertheless, Thailand's lèse-majesté law, like any law in every legal system of the world, is open to the process of accommodating itself to the ever-changing social conditions.

Concerning the legal procedure, as with other criminal offences, proceedings on lèse-majesté cases are conducted in accordance with due legal process. Under the Thai Criminal Procedure Code, a person who finds a suspected lèse-majesté act may, on his or her own, set in motion legal prosecution by lodging a formal complaint. Facts and evidence must then be gathered and investigated first by the police to establish the case before it can be submitted to and be screened by the public prosecutor. Only thereafter may the public prosecutor bring the case before the court. Here it should be noted that complaints are dropped if the police find no ground to proceed.

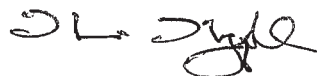
Throughout the legal process, the defendant has the right to contest the charges and the right to a fair trial, as well as assistance from a legal counsel, if the case is brought before the court. The court may decide to hold a trial on a lèse-majesté case on camera. Thai law provides that the judge may use discretion to hold closed trials in certain cases if they are deemed to involve sensitive matters in the interest of public order, good morals or national security, which is consistent with Article 14 of the ICCPR and not dissimilar to the practice in other countries.

As for those found guilty, they have the right to appeal with higher courts, and once their cases become final, they may request royal pardons. It is not uncommon for royal pardons to be granted in such cases.

As per your allegation that the article 112 of the Thai Criminal Code and article 14 of the Thai Computer Crime Act have been used to "muzzle" dissenting opinions and expressions of discontent with the Government or the King, even more so since the military assumed administrative control on 22 May 2014, it should be taken into consideration that a number cases which are currently being pursued by the concerned authorities and reported regularly by the media are actually ongoing cases from previous governments.

I hope the above information will address some of your concerns. Further information from the relevant agencies concerned in Thailand will be transmitted to you once it is received.

Yours sincerely,



(Thani Thongphakdi)

Ambassador and Permanent Representative