



PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: UA G/SO 218/2 G/SO 217/1 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (53-24)
THA 6/2014

28 May 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5, 25/13 and decision 25/116.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning **allegations on the suspension of constitutional guarantees, detention of senior political leaders and others, closure of multiple media outlets in Thailand.**

According to the information received:

On 22 May, two days after the imposition of martial law, the armed forces and the police issued a statement that they would assume the control of the country. They set up a governing body, the National Peace and Order Maintaining Council, (later changed to the National Council for Peace and Order (NCPO)), with the Chief of the Royal Thai Army as the head and chiefs of other security forces as the deputies. Within 24 hours, the NCPO reportedly issued 21 announcements and three orders, that, among other restrictions, suspended the Constitution, deposed the acting Government and transferred all powers and responsibilities of the Prime Minister to the NCPO.

- The 4th Announcement allegedly ordered all radio and TV stations to air programmes only from the channel associated with the Royal Thai Army. The 15th Announcement further ordered the closure of 14 satellite TV stations, unregistered community radio stations. Reportedly, approximately 3,000 community radio stations have been forced to close.
- The 12th Announcement reportedly ordered online social media services providers not to send any messages containing elements of incitement, provocation of violence, unreliable contents, disregard of law, or opposition to the work of the NCPO. The announcement allegedly threatens violators with closures of service providers and legal action. Furthermore, internet providers are ordered to investigate and prevent distribution of distorted information, incitement or information likely to affect the national security or the morale of people.
- The 14th Announcement reportedly prohibited owners of print media and all types of TV and radio programmes and journalists to interview academia or former civil servants in a way to “escalate conflict, to distort, to make confusions in the society or increase violence.” Furthermore, the 18th Announcement ordered all media service providers to stop distributing certain information, including comments on the NCPO that could pose threats to national security. All such services providers are obliged to distribute information provided by the NCPO. The 7th Announcement reportedly prohibited political gathering in any place of more than five people and established sanctions of imprisonment of one year maximum, fines of 20,000 Thai Baht or both. The announcement also reportedly ordered individuals participating in demonstrations to disperse. The 14th Announcement also ordered provincial governors, police and the Ministry of Interior officials to stop any demonstration or activities that oppose the NCPO.
- The 37th Announcement reportedly ordered that anyone breaching Criminal Law sections 107 to 112, concerning wrongful acts against the royal family and sections 113 to 118, concerning the national security, to be tried by the military court.

Also on 22 May 2014, approximately 50 soldiers armed with M-16s entered the rally site of the pro-government United Front for Democracy against Dictatorship (UDD). Reportedly, gunshots were heard and there were unconfirmed reports of injuries. At least four people were reportedly detained by soldiers. It is alleged that journalists were not allowed into the area.

On the same day, 25 senior political leaders from different factions were taken away in vans by soldiers to the 1st Infantry Regiment (King's Guard) in Bangkok. As of 11 a.m. on 23 May, authorities released five representatives of the Democrat

Party and three from the Pheu Thai party. The 17 remaining individuals, reportedly were in custody as of 4 p.m. on 23 May. Also on 22 May, six “red shirt” leaders were arrested by soldiers in Chiang Mai and in surrounding areas. The location of their detention is unknown.

Furthermore, as of 4pm of 26 May, the NCPO reportedly issued nine orders summoning 231 individuals to the army bases and prohibiting them to leave the country. These reportedly include former cabinet members of the deposed Government, pro-Government “red shirts” leaders, family members of ruling party Pheu Thai, Members of Parliaments and several anti-Government movement leaders, academics, journalists and activists. When those summoned reported to the designated place soldiers allegedly transported them to army camps in different locations in the Central region. Reportedly, family members were not informed of whereabouts of detainees. It is reported that those who are summoned and fail to appear face two years imprisonment, a fine of a maximum 40,000 Thai Baht or both.

While we do not wish to prejudge the accuracy of these allegations, we express serious concern at the suspension of the constitution, imposition of martial law, the suspension of mass media, the ban on gathering of more than five persons, the reported deposition and detention of members of the elected Government, as well as the arrest and detention of civil servants, political leaders, activists, journalists, human rights defenders as well as others. Many of these persons, as well as other summoned by the NCPO, appear to be detained incommunicado. Emphasizing that democratic processes are essential to guarantee human rights we express extreme concern that the current situation may result in further human rights violations.

In this regard, we would like to refer your Excellency’s Government to articles 6, 19, and 21 of the International Covenant on Civil and Political Rights (ICCPR) acceded by Thailand on 29 October 1996, which guarantee respectively the rights of every individual to life, to freedom of opinion and expression and to freedom of peaceful assembly and of association. Article 4 of the same Covenant provides that no derogation from certain specific rights, in particular the rights to life and to physical and mental integrity, may be made, including in time of public emergency. In this regard, we would like to refer to General Comment No. 29 of the Human Rights Committee on article 4 (states of emergency) of the Covenant.

While we do not wish to express an opinion on whether or not the detention of the above-mentioned individuals is arbitrary, the above allegations appear to be in contravention of the right not to be arbitrarily deprived of liberty, as set forth in article 9 of the Universal Declaration of Human Rights and the ICCPR; and with the human rights standards related to prevention of enforced disappearances (articles 7, 9.1, and 10 of the Declaration on the Protection of all Persons from Enforced Disappearance). We would also like to remind your Excellency’s Government, that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture or other

cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Are the facts described in the above cases accurate?
2. Please provide information on all measures announced by the National Council for Peace and Order following the the invocation of the martial law on 20 May 2014 and their conformity in particular with articles 6, 19 and 21 of the ICCPR and with other relevant provisions included in international treaties.
3. Please provide information concerning the legal grounds for the arrest and detention of the above-mentioned individuals and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
4. Please provide information on the whereabouts of all the persons taken into military and police custody since 20 May 2014, including those summoned by the National Council for Peace and Order and about measures taken to protect the physical and mental integrity of all these persons.
5. Please provide detailed information relative to the closure of multiple media outlets and investigations and possible judicial proceedings carried out with regard to the allegations of attacks against journalists and media outlets.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Given the seriousness and urgency of the allegations, we would like to inform your Excellency's Government that we are considering issuing a press release on the issues contained herein in the near future.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

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