

Mandates of 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; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the independence of judges and lawyers

REFERENCE: UA
THA 7/2015:

16 July 2015

Excellency,

We have the honour to address you in our capacity as 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; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolutions 25/2, 24/5, 25/18, and 26/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged arbitrary detention, prosecution, and trial before a military court of 14 students belonging to the Neo Democracy Movement (NDM) due to their participation in a series of peaceful protests**. The NDM is a student movement opposed to the current regime and forced evictions of rural communities in north-eastern Thailand.

Ms. Sirikan Charoensiri, one of the lawyers representing the students, who was victim of alleged threats and acts of intimidation in relation to the discharge of her professional duties in the present case, was the subject of an allegation letter sent on 7 July 2015 by the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers (see above, case no. THA 6/2015).

The allegations described below take reportedly place in a context of increased restrictions on multiple rights and fundamental guarantees, including on the right to freedom of opinion and expression and the right to freedom of peaceful assembly. Several joint communications were sent to your Excellency's Government by Special Procedures of the United Nations in relation to suspension of constitutional guarantees

and the detention of human rights defenders, activists and political opponents in Thailand, following the military coup on 22 May 2014, issued on **28 May 2014** (see **A/HRC/27/72, case no. THA 6/2014**); **8 December 2014** (see **A/HRC/29/50, case no. THA 13/2014**); and **8 June 2015** (case no. **THA 4/2015**). While we take note of the replies provided by your Excellency's Government to the communications **THA 6/2014** and **THA 13/2014**, we look forward to receiving your response to the questions we had asked in the Joint Urgent Appeal **THA 4/2015**.

According to the information received:

On 22 May and 25 June 2015, Ms. **Chonticha Chaengreo**, Mr. **Rangsiman Rome**, Mr. **Wasant Sadesit**, Mr. **Songtham Kaewpanphruek**, Mr. **Payu Boonsopon**, Mr. **Apiwat Suntararak**, Mr. **Rattapol Supasophon**, Mr. **Supachai Pookhlongploy**, Mr. **Apisit Sapnapaphan**, Mr. **Panupong Sritananuwat**, Mr. **Suvicha Pitungkorn**, Mr. **Pakorn Areekul**, Mr. **Chatupat Boonyapatraksa**, and Mr. **Pornchai Yuanyee**, all students belonging to the Neo Democracy Movement, took part in a series of peaceful demonstrations in Bangkok and Khon Kaen to protest against the 2014 coup d'état and forced evictions of rural communities in north-eastern Thailand.

On 26 June 2015, police forces reportedly arrested the 14 students in execution of an arrest warrant issued by the Bangkok Military Court, for breaching National Council for Peace and Order (NCPO) No. 3/2015, which prohibits gatherings of more than five people, and article 116 of the Criminal Code ('sedition'). The students face up to seven years in prison under the sedition charge, and up to six months' imprisonment and a fine of 10,000 baht for violating the NCPO.

On 27 June 2015, the Bangkok Military Court decided the remand in custody of the 14 students for 12 days. Ms. Chaengreo was placed in the Woman Correctional Institution, while the 13 male students were taken to the Bangkok Remand Prison.

On 7 July 2015, the Bangkok Military Court rejected the calls made by the police to extend the students' detention for another 12-day period, and ordered their unconditional release pending trial scheduled the following day. However, it maintained the charges brought against them.

Serious concern is expressed that the alleged arbitrary detention, prosecution, and trial before a military court of the aforementioned 14 students may be linked to the exercise of their rights to freedom of peaceful assembly and of association. Further grave concern is expressed that the 14 students are tried before a military court despite their status as civilians. We also remain seriously concerned at the use of NCPO orders to reduce space for those expressing dissenting opinions in Thailand.

In connection with the above alleged facts and concerns, we would like to refer to the articles 14, 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR) that Thailand acceded to on 29 October 1996, which guarantee the rights to a fair trial, to freedom of opinion and expression and to freedom of peaceful assembly, respectively. Moreover, article 4 of the ICCPR sets out strict boundaries within which a State can derogate from certain of its obligations under the Covenant when a public emergency, officially proclaimed, threatens the life of the nation. Such derogations must be of an exceptional and temporary nature and strictly required by the exigencies of the situation.

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 5 and 6.

The prosecution of the 14 students before a military court also seems to be in contravention of their right to a fair and public hearing by a competent, independent and impartial tribunal established by law, as military tribunals should have jurisdiction only over military personnel who commit military offences or breaches of military discipline, and only when those offences or breaches do not amount to serious human rights violations.

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. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please confirm the legal basis for the alleged detention of the 14 aforementioned students, and the charges brought against them. Please indicate how these measures are compatible with the international human rights norms and standards governing the exercise of the rights to freedom of peaceful assembly and freedom of opinion and expression.
3. Please provide detailed information on the legal ground for trying the 14 students mentioned above before a military court; explain in particular how such trials are

compatible with international human rights standards, in particular article 14 of the ICCPR.

4. Please indicate what measures have been, or will be, taken to ensure that the rights to freedom of peaceful assembly and freedom of opinion and expression are respected.

5. Please kindly indicate what measures have been taken to ensure that human rights defenders are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

6. Please indicate how the above-mentioned NCPO No. 3/2015 is compatible with international human rights standards, in particular, articles 4, 19 and 21 of the ICCPR.

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.

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.

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

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

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