

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the rights to freedom of peaceful assembly and of association**

REFERENCE:  
AL THA 1/2020

20 January 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 34/18 and 41/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **judicial proceedings against the Future Forward Party, which may lead to its dissolution and the criminalisation of its members.**

According to the information received:

In early March 2018, the Future Forward Party (FFP) was formed by Mr. Thanathorn Juangroongruangkit and other individuals, including academics, social and political activists, and entrepreneurs. It was officially recognised as a political party in September 2018. During its operation, the FFP has campaigned for the amendment of the 2017 military-drafted Constitution and for military reforms, including reducing the military budget, removing the military's interference in domestic politics, reducing the number of generals in the army, and ending conscription. In the general election of 24 March 2019, the FFP received around six million votes and obtained the third highest number of seats (80) in the lower house of Parliament.

Following the election, the Constitutional Court suspended the founder of the FFP as a Member of Parliament after he had been accused of registering for candidacy in the general election while still holding shares in a media company. He was disqualified as a Member of Parliament in November 2019. It is reported that several other key members of FFP are currently being either investigated or prosecuted in at least 30 cases under different laws including the Computer Crime Act; Organic Political Party Act, the Organic Law on the Election of the Members of Parliament, Public Assembly Act, and different charges under the Criminal Code.

Among these various cases, one lodged with the Constitutional Court petitions for the dissolution of the FFP for allegedly having ideology and willingness to overthrow the Constitutional Monarchy. The allegation appears to be based on statements by members of the FFP that were critical of the current government.

On 19 July 2019, the Constitutional Court with a majority decision (5 out of 9 judges) accepted the case for its consideration under Article 49 of the 2017 Constitution. Article 49 stipulates that no person shall exercise his rights or liberties to overthrow the democratic regime with the Monarch as the Head of State. Any person who has knowledge of such an act shall have the right to petition to the Attorney-General to request the Constitutional Court for ordering the cessation of such act. If the Attorney-General refuses to proceed as petitioned or fails to proceed within fifteen days from the date of receiving the petition, the petitioner may submit it directly to the Constitutional Court. It is reported that a decision on this case will be taken by the Constitutional Court on 21 January 2020.

It is reported that if the party is dissolved, FFP's Executive Committee members may be banned from forming a political party and from being Executive Committee members of any party for up to 10 years. Executive Committee members who are currently sitting in Parliament may also be stripped of their MP status and may be banned from running in elections for 10 years. Other FFP members of Parliament may have to join another political party within 60 days or would otherwise lose their status as Member of Parliament.

Furthermore, it is reported that on 14 December 2019, the FFP organised a peaceful gathering at the National Stadium Skywalk of the Bangkok Mass Transit System. Following this event, some party members were charged with alleged involvement in organising a flash mob without notification, interrupting the public access to the train station, interrupting the public access to public space, and advertising through a sound amplifier without permission from the authority.

We express serious concern about the judicial proceedings against the Future Forward Party, which could result in the dissolution of the party and the criminalisation of its members. These measures may prevent party members from exercising their right to freedom of association and freedom of expression and may intimidate and deter other individuals, including members of other political parties, civil society and human rights defenders, and others, from speaking on the role of the military and the monarchy in Thai politics and other issues of public interest. In this context, we also express serious concern that the various judicial cases, including those related to the holding of a gathering without notification, brought against members of the Future Forward Party, may appear to be related to their views on the influence of the military in domestic politics. Furthermore, we are concerned that the current proceedings are being used to penalise the FFP for its criticism of the ruling government. In particular, members of the FFP may face criminal prosecution for statements critical of the Government under existing sedition and lèse-majesté laws, which the Special Rapporteurs have raised concerns about in the past (e.g. UA THA 1/2017 and UA THA 7/2017).

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 provide the full details of the factual and legal basis for the legal proceedings that could lead to the closure of the Future Forward Party and explain how it complies with international human rights law and standards.
3. Please explain whether and under what conditions the FFP will have recourse to a legal review of this decision.
4. Please provide information you may have regarding guidelines or interpretations of Article 49 of the Constitution which may ensure it does not adversely affect the right to freedom of opinion and expression, in accordance with General Comment 34 of the Human Rights Committee.
5. Please indicate what measures have been taken to ensure individuals can exercise their right to freedom of association and of peaceful assembly and freedom of expression free from intimidation or persecution.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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(s) responsible for the alleged violations.

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

Clement Nyaletsossi Voule  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

**Annex**  
**Reference to international human rights law**

In connection with above, we would like to refer to the rights to freedom of association and freedom of expression as set forth in articles 19 and 20 of the Universal Declaration of Human Rights and in articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR) acceded by Thailand on 29 October 1996.

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." Any restriction on such rights must meet the conditions of legality, necessity and proportionality, and legitimacy of objective (See generally Human Rights Committee, General Comment 34, paras. 21 – 36). In its General Comment 34, paragraph 28, the United Nations Human Rights Committee underscored that restrictions on the right to freedom of expression under paragraph 3 of Article 19 must not impede political debate. Furthermore, paragraph 38 highlights the particularly high value placed upon uninhibited expression in circumstances of public debate concerning public figures in the political domain and public institutions.

We would further like to appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of association and of peaceful assembly, as recognised in articles 21 and 22 of the ICCPR. Article 21 of the ICCPR provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others." Article 22 of the ICCPR recognizes that: "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests".

In this context, we would like to refer to the best practices related to freedom of association and of peaceful assembly identified in the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (See in particular, paragraph 75 on the procedure related to the suspension or the dissolution of associations; A/HRC/20/27). In this report, the Special Rapporteur emphasized that "[t]he suspension and the involuntarily dissolution of an association are the severest types of restrictions on freedom of association. As a result, it should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law."

In his report A/68/299, the Special Rapporteur further emphasised that "only when a political party or any of its candidates uses violence or advocates for violence or national, racial or religious hatred constituting incitement to discrimination, hostility or

violence (art. 20, International Covenant on Civil and Political Rights, also reflected in art. 5 of the International Convention on the Elimination of All Forms of Racial Discrimination), or when it carries out activities or acts aimed at the destruction of the rights and freedoms enshrined in international human rights law (art. 5, International Covenant on Civil and Political Rights), can it be lawfully prohibited”.

In his report A/HRC/20/27, the Special Rapporteur also clarified that “Should the organizers [of a gathering] fail to notify the authorities, the assembly should not be dissolved automatically and the organizers should not be subject to criminal sanctions, or administrative sanctions resulting in fines or imprisonment.”

Furthermore, we would like to bring to the attention of your Excellency’s Government the provision of 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 made under article 12 paras 2 and 3 which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.