

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

REFERENCE:
AL THA 7/2020

17 September 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 41/12, 43/4 and 43/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning criminal charges brought against **Mr. Arnon Nampa, Mr. Panupong Jadnok, Mr. Parit Chiwarak, Mr. Baramee Chairat, Ms. Suwanna Tarnlek, Mr. Korakot Saengyenpan, Mr. Dechathorn Bamrungmuang, Mr. Tossaporn Sinsomboon, Mr. Tanee Sasom, Mr. Nattawut Somboonsap and Mr. Thanayut Na Ayutthaya, Mr. Tattep Ruangprapaikitseree, Mr. Panumas Singprom and Ms. Jutatip Sirikhan** as well as the blocking of Facebook groups by your Excellency's Government.

According to the information received:

The Student Union of Thailand and *Free youth*, a national youth movement, organized a peaceful rally on 18 July 2020 in Bangkok. Reportedly, more than 2,000 people participated in the gathering. Following this demonstration, several peaceful protests have been organized across Thailand in the following weeks. According to information received, more than 20,000 people took part in a peaceful protest on 16 August 2020 in Bangkok. Different demands were voiced by the protesters during this demonstration, but they generally shared calls for new elections, a new constitution, an end to harassment of government critics and demand a constitutional monarchy.

At the time of sending this communication, peaceful protests are ongoing and have spread to all parts of the country. At the same time, many groups on social media, including Facebook, sprung up or found many new members, discussing political reforms. Following the peaceful protests, a range of participants and speakers at different protests were arrested and charged by the authorities; details of some of these cases follow.

According to information received, Mr. Arnon Nampa, a human rights lawyer and human rights defender, and Mr. Panupong Jadnok, a student activist, were both arrested on 7 August 2020. Mr. Parit Chiwarak, a student activist, was arrested on

14 August 2020. Messrs Nampa, Jadnok and Chiwarak were all arrested for speaking at the above mentioned rally on 18 July 2020 in Bangkok and were granted bail under the conditions of non-repetition of the alleged crimes.

Mr. Nampa was arrested a second time on 19 August, human rights defender Mr. Baramee Chairat and activists Ms. Suwanna Tarnlek and Mr. Korakot Saengyenpan were also arrested on that date in connection with the peaceful assembly of 18 July 2020.

On 20 August 2020, five other activists, Mr. Dechathorn Bamrungmuang, Mr. Tossaporn Sinsomboon, Mr. Tanee Sasom, Mr. Nattawut Somboonsap and Mr. Thanayut Na Ayutthaya were arrested. All nine persons arrested between 19 and 20 August 2020 were released on bail on the evening of 20 August 2020.

Mr. Jadnok was also arrested a second time on 24 August 2020 in Rayong province and released on bail on the same day.

Mr. Tattap Ruangprapaikitseree and Mr. Panumas Singprom, two human rights defender and organizers of the peaceful assembly on 18 July 2020, were arrested on 26 August 2020. Ms. Jutatip Sirikhan, president of Student Union of Thailand and an activist, was arrested on 1 September 2020. All three were released on bail on the same day as their arrest.

The fourteen individuals mentioned above have been charged with seven violations of the Thai Criminal Code including sedition, holding an “illegal assembly” and being part of a mob in connection to their participation in the peaceful assembly of 18 July 2020 in Bangkok. The charge of Sedition (Article 116 of Thai Criminal Code) is a serious crime and carries a maximum penalty of seven year imprisonment.

Furthermore, arrest warrants for some speeches made during the protests were handed down to Messrs. Nampa (20 July, 3 August, 10 August) and Jadnok (20 July, 10 August) and Ms. Tarnlek (20 July, 3 August). Additional to criminal charges related to their participation in the peaceful assembly of 18 July 2020, Messrs. Nampa and Jadnok were also charged under the Computer Crimes Act for using their social media accounts to call the public to participate in the rallies on 3 and 10 August 2020.

On 24 August 2020, the authorities ordered Facebook to “geo-block” access to the Facebook group “Royalist Marketplace” from within Thailand following threats from the Ministry of Digital Economy and Society to use the Computer Criminal Act against the Thai employees working in the Facebook office in Thailand. A spokesperson from Facebook had publicly stated that: “Requests like this are severe, contravene international human rights law, and have a chilling effect on people's ability to express themselves”.

We express serious concern about the charges brought against the fourteen individuals mentioned above. We recall that under international human rights law, nobody should be held criminally liable for their peaceful participation in an assembly or expressing their opinion. Should these allegations be confirmed, they would be in violation of international human rights law, in particular Articles 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Thailand on 29 October 1996, which guarantee the right to freedom of opinion and expression and the right to freedom of peaceful assembly.

We are also very concerned that the blocking of Facebook groups will have a chilling effect on individuals' ability to take part in public and political life. We are seriously concerned that those taking part in online discussions may face criminal prosecution for statements deemed critical of the government under existing sedition and lèse-majesté laws, which the Special Rapporteurs have raised concerns about in the past (e.g. AL THA 1/2020, 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 against the 14 individuals mentioned.
3. Please explain in which circumstances speaking and participating at a peaceful assembly and calling for peaceful political change can amount to charges of sedition under Article 116 of the Thai Criminal Code.
4. Please explain what measures have been taken to apply the Human Rights Committee's recommendation not to use the Computer Crimes Act, the Sedition Act and other regulations to suppress freedom of speech and freedom of peaceful assembly.
5. Please indicate what measures have been taken to ensure individuals can exercise their right to freedom 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.

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

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, and while we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the international norms and standards applicable to the present case. We would like to refer to articles 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Thailand on 29 October 1996, which guarantee the rights to freedom of expression and opinion and freedom of peaceful assembly respectively.

Regarding the right to freedom of peaceful assembly we would like to refer to the recently adopted General Comment No. 37 of the Human Rights Committee on Right of peaceful assembly ([CCPR/C/GC/37](#)), which stressed that “the possibility that a peaceful assembly may provoke adverse or even violent reactions from some members of the public is not sufficient grounds to prohibit or restrict the assembly. [...] States are obliged to take all reasonable measures that do not impose disproportionate burdens upon them to protect all participants and to allow such assemblies to take place in an uninterrupted manner”.

In this regard, we would like to refer to Human Rights Council Resolution 24/5 which “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others”.

Freedom of opinion and expression entails that “everyone shall have the right to hold opinions without interference” as well as 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.” This right includes not only the exchange of information that is favorable, but also that which may shock or offend. In its General Comment No. 34 on Freedoms of opinion and expression (CCPR/C/GC/34), the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedoms of opinion and expression, including inter alia ‘political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism’, subject only to admissible restrictions as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination. In its General Comment No. 25 on Participation in Public Affairs and the Right to Vote (CCPR/C/21/Rev.1/Add.7), the Human Rights Committee set out that: “In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. [...] It requires full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the Covenant, including freedom to engage in political activity individually or through political parties and other organizations, freedom to debate public affairs, to hold peaceful demonstrations and

meetings, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas.”.

We, once again, wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16. The Resolution calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

We would also like to refer to report by the Special Rapporteur on the rights to freedom of peaceful assembly and association in which he considers that to prohibit an individual or association from publishing material online solely on the basis that it may be critical of the government or the political social system espoused by the government is inconsistent with the rights to freedom of peaceful assembly, association and expression (A/HRC/41/41 para. 42).

We would like to reiterate the recommendations made by the Human Rights Committee during Thailand’s second periodic review in 2017, when it expressed that your Excellency’s Government should refrain from using the Computer Crimes Act (2007), the Sedition Act and other regulations to suppress freedom of speech and freedom of peaceful assembly, as well as guarantee and respect the rights to these freedoms (CCPR/C/THA/CO/2, paras. 35, 36, 39, 40).

In connection with the above arrest of activists, we would like to refer to the right not to be arbitrarily deprived of liberty and to fair proceedings before an independent and impartial tribunal, as set forth in articles 9 and 14 of the ICCPR. We wish to highlight that deprivation of liberty resulting from the exercise of the rights or freedoms guaranteed by the ICCPR is arbitrary. Article 9 establishes in particular that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law, and that anyone who is arrested shall be informed, at the time of arrest, of the reasons behind such arrest and be brought promptly before a judge for the purpose of legal assessment of detention.

In relation to the allegations indicating that the individuals mentioned above are being targeted because of their activities defending human rights, we would like to refer your Excellency’s Government to the fundamental principles set forth in 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, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. Article 5 and 6 of this Declaration are also relevant as they

provide for the rights, individually or in association with others, at the national and international levels to meet, assemble peacefully; seek, obtain, receive and hold information on human rights including remedies to claim those rights; and freely publish and impart or disseminate to others view, information and knowledge on human rights.