

**Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

REFERENCE:  
AL THA 6/2021

29 October 2021

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; Working Group on Arbitrary Detention and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 41/12, 42/22 and 43/4.

In this connection, we would like to bring to the attention of your Excellency's Government **information we have received concerning the alleged use of disproportionate force against peaceful protestors since the beginning of August 2021, in the Bangkok region of Thailand, resulting in serious injuries to both protestors and journalists. We would like to bring further attention to information received on widespread arrests and acts of intimidation against peaceful protestors, including children and journalists.**

We would also like to recall the communications which were sent to your Excellency's Government on 17 September 2020 (AL THA 7/2020) and on 11 January 2021 (AL THA 11/2020). We thank Your Excellency's Government for the answer provided on 25 November 2020 (n°52101/300), nevertheless we regret the lack of substantive answer to the communication on 11 January 2021 (AL THA 11/2020) mentioned above.

According to the information received:

Since the beginning of August 2021 with the relaxation of some of the COVID-19 restrictions, pro-democracy activists resumed organising protests that have been ongoing since February 2020 in Thailand. During these protests, participants have been expressing their discontent over the mismanagement of the Covid-19 pandemic by the Government, as well as calling for the resignation of Prime Minister Prayut Chan-o-cha, for the amendment to the recently reactivated lèse-majesté law, for the reform of the monarchy and for the release of detained protesters. The protests took place in several locations in the Bangkok metropolitan area: near the Prime Minister's residence, at the Victory Monument, at the Government House, at the Din Daeng Intersection, at Ratchaprasong Intersection, at the Democracy Monument, at the Din Daeng Police Station, and at the Sino-Thai Tower, *inter alia*. Police used water cannons, rubber bullets and tear gas to disperse the mostly peaceful protesters, and without prior warning in several instances. From 1 August to 7 September, at least 148 people were injured by the police, including 49 minors, notably at the Victory Monument, the Ratchaprasong intersection, the Sino-Thai Tower, and the Din Daeng intersection. Reportedly at least eight journalists were targeted by police violence despite wearing

visible press IDs. Several journalists were injured by rubber bullets while settled in an area where there were no protestors. Subsequently, journalists filed a request to the Bangkok Civil Court for protection and for the prohibition of the use of rubber bullets by crowd control police against both journalists and peaceful protesters (Bangkok Civil Court, *Mr. Thanapong Kengpaiboon et al. v. Royal Thai Police et al.*, Action N°.W3683/2564). After an initial rejection of their request, the court thereafter agreed to an injunction on 10 August. Notwithstanding the court's injunction, journalists were still hit by rubber bullets, notably on 13 August near the Din Daeng Intersection.

Between 1 August and 7 September, at least 496 people were reportedly arrested for their participation in political assemblies - including at least 97 minors - mostly without a warrant. Individuals involved in the protest were arrested at the Border Patrol Police Region 1, in Nonthaburi, in Pathumthani, as well as in Bangkok and more specifically at the Narcotics Suppression Bureau, at the Monument and Din Daeng junction, between the Ratchaprasong intersection and Sino-Thai Tower, at the Victory Monument, at the Din Daeng junction and at the Government House. Allegedly, several protestors were subsequently detained outside of the police station jurisdiction in which the arrest took place, having been transported to facilities far from the location of their arrest, in violation of Section 83 of the Thai Criminal Procedure Code.

Moreover, locations such as the Border Patrol Police Region 1 and the Narcotics Suppression Bureau near Bangkok are not readily accessible to lawyers and relatives as they need to seek permission before conducting a visit. In some cases, police officers reportedly seized the suspects' and the lawyers' phones during visits. Arrestees were detained for criminal charges such as violation of the Emergency Decree which restricts gatherings, sedition (section 116 of the Thai Penal Code), engaging in a mob (sections 215 and 216 of the Thai Penal Code), and using sound amplifiers without permission (Controlling Public Advertisement by Sound Amplifier Act B.E. 2493). The lèse-majesté laws (section 112 of the Thai Penal Code) were also frequently used against protestors.

On 1 August, at least 41 "car mob" protests were held around 20 provinces in Thailand, to evade legal restrictions on public gatherings aimed at enforcing Covid-19 social distancing measures. Protestors reiterated demands for the resignation of the Prime Minister, to reform the monarchy, to release detained pro-democracy activists and a constitutional amendment of the lèse-majesté law. The protest was led by activist Mr. **Sombat Boonngamanong**, and joined by, *inter alia*, the Red Shirt pro-democracy activists, the constitutionalist group Ratsadorn and a gender equality activist group. The 1 August protests held in Bangkok commenced simultaneously in five main points of the city (at the Don Muang Airport, at Silom Soi 2, at the Ratchaprasong intersection, at the Democracy Monument and on the Ram Intra Road) and thereafter converged towards the Prime Minister's residence. Clashes with the police occurred near Ratchadamnoen Nok Avenue and Nang Loeng around 3.00pm local time. The crowd control police dispersed protestors with tear gas, rubber bullets and force, as protestors allegedly threw fireworks in front of the 1<sup>st</sup>

Infantry Division. The rally officially ended at 4.30pm local time, but violence continued on Vibhavadi Rangsit Road around 6.00pm local time, which was met with tear gas and rubber bullets from police, stationed on an expressway above the protestors. In Bangkok and its metropolitan area (Nonthaburi and Pathumthani), twelve individuals were arrested without warrants, while arrest warrants were issued for at least 41 protestors nationwide. Some were arrested while travelling to participate in the protest and were released the same day, and others were detained at the Narcotics Suppression Bureau.

The following day, on 2 August, protests were held in front of the Narcotics Suppression Bureau to demand the release of the protestors detained there. The event was organised by human rights defender and pro-democracy activist Mr. **Jatupat Boonpattaraksa** (“Pai Dao Din”) and the Thalufah group. Some protestors were released and at least twenty participants, including one minor as well as protest leader Mr. Jatupat Boonpattaraksa and the Thalufah group, were arrested without warrants after announcing the end of the rally. They were detained at the Border Patrol Police Region 1.

The same day, another human rights defender and a leader of the Ratsadorn anti-government movement, Mr. **Parit Chiwarak** (“Penguin”), held a protest at the Border Patrol Police Region 1 to demand the release of the people arrested earlier. One of the protestors was arrested and nine arrest warrants were later issued, including for Mr. Parit Chiwarak. On 8 August, protest leaders including Mr. Parit Chiwarak surrendered themselves at the Royal Thai Police Headquarters in Bangkok and were taken into custody. The next day, the Thanyaburi court refused their request for bail and revoked Mr. Parit Chiwarak’s previous bail.

On 7 August, another march was organised by the Free Youth group from the Victory Monument to the Prime Minister’s residence at the 1<sup>st</sup> Infantry Division. Police reportedly fired rubber bullets, tear gas, and water cannons for approximately two hours to halt the protest, and continued even after the end of the rally. At least four people, among them two journalists, were injured from rubber bullets. Three police officers were also reportedly injured. Ten people were arrested before the protest and at least eight during the protest, all without warrants. Among those arrested, fourteen were taken to the Metropolitan Police Bureau and four were taken to the Border Patrol Police Region 1. Because of this protest, three additional people were allegedly arrested on 12 and 13 August, some of which were not informed of their rights and were ordered to plead guilty.

On 10 August, the pro-democracy group the United Front of Thammasat and Demonstration (“UFTD”) organised a car protest to the Sino-Thai Tower, where different ministers have assets, to continue demands for the reform of the monarchy, the resignation of the Prime Minister, and a better distribution of the Covid-19 vaccine. The protestors conducted symbolic actions such as drawing graffiti over the King Power offices signs, *inter alia*. A clash between the police and protestors occurred at the Victory Monument and the Din Daeng Intersection around 4.30pm local time. Police again used tear gas and

rubber bullets against the protest, to which participants responded by firing flash bangs. The confrontation escalated for a few hours despite activists calling off the protest. According to the information received, one of the protestors was then trampled by police officers, with one officer reportedly saying to a journalist: "Let's have some fun". Furthermore, police clashed violently with people who did not participate in the protest were attacked by the police and residence areas near the intersection were fired with tear gas. At least five people were injured, including three minors, and 42 protestors were arrested, among which fourteen minors.

Another protest was organised at Victory Monument on August 11 where a sign showing "Get out Prayut" was hung. Protestors burnt an effigy of a judge to symbolize their dissatisfaction in response to the denial of bail requests for other prominent pro-democracy activists. One hour into the protest, the crowd control police surrounded the protestors and reportedly attempted to disperse them violently with tear gas and rubber bullets, while protestors used slingshots against the police. Thirteen people, including one media personnel and one minor, were injured. During and after the protest, seventeen people were arrested without warrants, including two minors, and taken to the Narcotics Suppression Bureau.

Another protest was held on 13 August in Din Daeng intersection and was led by the Thalufah group. Protesters gave speeches and set fire to sacks of rotting fruit to symbolise the economic hardship of farmers. A clash with police occurred despite the organisers repeatedly calling for non-violence. Protesters marched to the Prime Minister's residence to call for his resignation over his alleged mismanagement of the pandemic. Police used tear gas and rubber bullets against protestors, while they responded with firecrackers and catapults. Pro-democracy activist and human rights defender Mr. **Tanat "Looknat" Thanakitamnuay** was reportedly blinded after being hit in the eye by a tear gas canister. Media personnel shown to be wearing press armbands were hit with rubber bullets which resulted in two of them being injured.

On 15 August, another protest gathered at the Ratchaprasong Intersection and the Democracy Monument and demanded the Prime Minister's resignation. A clash arose as the crowd control police fired rubber bullets, water cannons, Long Range Acoustic Device ("LRAD"), and tear gas at protestors, who threw firecrackers at police in response. A police booth was also burnt. It was further reported that police officers fired rubber bullets at residents of Din Daeng apartment blocks and conducted a search on every passing motorcycle. At least five people, including a minor and a member of media personnel, were reported injured by rubber bullets.

Protestors gathered again on 16 August at the Victory monument and placed mock bodies as a symbol for the government's failures in responding to the Covid-19 pandemic. While marching to the Government House, some protestors approached with their raised hands to show they were unarmed, while others used fireworks, rocks, and ping-pong bombs against police and

tried to go past a barricade. A confrontation started with the police, who reportedly retaliated without forewarning, firing tear gas and water cannons. A police car also hit a motorbike and agents then surrounded the driver, pointing their firearms at him. At least five people, including four minors, were injured. One of the children is a 15-year-old who was severely injured in the head by live ammunition near the Din Daeng Police Station and was still in a coma at Ratchavitee Hospital as of 18 August. Two other minors, a 14 and a 16-year-old, were wounded by live ammunition. The Police subsequently denied using live ammunition, stating they would conduct further investigations, whilst also warning that they would consider legal actions against those sharing false information. In relation to this last reported protest, at least thirteen people, including five minors, were arrested without warrants and taken to the Narcotic Suppression Bureau. Some of them did not have any connection to the protest and lawyers were refused access to those arrested for two hours.

Until recently, many more protests have been organised in the Bangkok area. On 17 August, a rally occurred at the Royal Police Headquarters where police read the Emergency Decree to protestors before firing water cannons at them around 4.00pm local time, without initiating any negotiations or leaving enough time for protestors to disperse. On 20 August, protestors took to the streets at the Din Daeng intersection at approximately 4.30pm local time. At 4.53pm local time, police shot tear gas into a tunnel which protestors were marching through, which resulted in injuries to protestors as well as to individuals unrelated to the protest. At 5.19pm local time, police dispersed protestors and journalists without warning. Several pro-democracy “car mob” protests were held on 29 August, along several streets in Bangkok, reiterating calls for the Prime Minister’s resignation, constitutional amendments and a reform of the monarchy. Protesters were met with tear gas and rubber bullets fired by the police after they started gathering at an intersection in the Din Daeng district, near the Prime Minister's house.

While we do not wish to prejudge the accuracy and the veracity of the above-mentioned allegations, we are gravely concerned by the disproportionate, systematic, and indiscriminate use of force by police officers to disperse protestors using water cannons, rubber bullets, and tear gas, during and after peaceful protests, resulting in severe injuries of protestors, journalists and bystanders. We regret the fact that journalists were targeted, despite wearing visible press IDs and that people unrelated to the protests were affected by the police violence. Police officers should not resort to violence during peaceful protests. Should these allegations be confirmed, they would be in violation of international human rights law, in particular articles 19 and 21 of the ICCPR acceded by Thailand on 29 October 1996.

Moreover, we would like to stress the concerns we have regarding the arbitrary arrests which were conducted before, during and after the above-mentioned protests. We wish to remind that protestors should not face criminal liability following their participation in peaceful protests. We are troubled by the use of emergency measures, sedition and lèse-majesté charges as reasons for dispersing and arresting peaceful protestors. In this connection, we reiterate our concern, as previously expressed in prior communications (see THA 11/2020, THA 7/2020, THA 1/2017,

THA 7/2017), regarding the criminalisation of criticism of the Government under the lèse-majesté law, and recall that such restrictions are not in conformity with the obligations of your Excellency's Government under article 19 of the ICCPR. Politicians can indeed legitimately be subject to criticism without the concerned individuals facing criminal charges. We are also concerned that many protestors, including minors were arrested without warrant. We are further troubled by the arrests of people unrelated to the protests, as well as the excessive checks on passers-by as prevention, which has a deterrent effect to the enjoyment of the right to freedom of peaceful assembly.

We are further concerned about the fact that protestors were detained in facilities far from where the arrests occurred, and in places which are hardly accessible to lawyers and relatives. Moreover, we wish to warn your Excellency's Government about the violation of procedural guarantees of protestors in custody, notably to be informed of their rights and to access a lawyer.

Finally, we are deeply concerned that these widespread acts of violence against peaceful protestors since the start of the pro-democracy assemblies in February 2020, as well as the arrest and detention of pro-democracy activists based on charges under the recently-activated lèse-majesté law, seem to take place in a broader environment in which protests are being criminalised, and the right to the freedom of peaceful assembly and of association is being infringed upon.

We are issuing this appeal in order to safeguard the rights of those detained from irreparable harm and without prejudicing any eventual legal determination.

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 comments 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 individuals mentioned above.
3. Please provide information regarding the above-mentioned arrested individuals, particularly regarding their safety, physical integrity and guarantee of their right to access justice.
4. Please indicate how your Excellency's Government has acted in order to make lèse-majesté and sedition laws compatible with international human rights instruments and recommendations.

5. Please provide information on the status of the investigation regarding the use of live ammunition, and specifically relating to the case taking place on 16 August of the severely injured 15-year-old child, in a comatose state at Ratchavitee Hospital as of 18 August.

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.

We would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the urgent appeal and the regular procedure.

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

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

Miriam Estrada-Castillo  
Vice-Chair of the Working Group on Arbitrary Detention

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

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the international norms and standards applicable to the present case. We would first like to recall article 20 (1) of the Universal Declaration of Human Rights which states that "[e]veryone has the right to freedom of peaceful assembly and association". We would further like to refer to articles 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Thailand on 20 October 1996, which guarantee the rights to freedom of expression and opinion and freedom of peaceful assembly respectively. Article 21 states that "[t]he 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."

The Human Rights Committee further stated that "[a]rticle 21 of the Covenant protects peaceful assemblies wherever they take place: outdoors, indoors and online; in public and private spaces; or a combination thereof. Such assemblies may take many forms, including demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils and flash mobs. They are protected under article 21 whether they are stationary, such as pickets, or mobile, such as processions or marches" (CCPR/C/GC/37, para. 6). The Human Rights Committee had previously indicated to your Excellency's Government that it "should effectively guarantee and protect the freedom of peaceful assembly and avoid restrictions that do not respond to the requirements under article 4 of the Covenant. In particular, it should refrain from imposing detention on individuals who are exercising their rights and who do not present a serious risk to national security or public safety" (CCPR/C/THA/CO/2, para. 40).

In relation to the alleged banning of protests due to their violation of sedition and lèse-majesté laws, we would like to remind your Excellency's Government the views expressed by the Human Rights Council noting that States must "refrain from imposing restrictions which are not consistent with paragraph 3 [of article 19 of ICCPR], including on 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" (A/HRC/RES/12/16, para. 5 (p) (i)). Moreover, The Human Rights Committee indicated that "restrictions on peaceful assemblies must not be used, explicitly or implicitly, to stifle expression of political opposition to a government (CCPR/C/MDG/CO/4, para. 51), challenges to authority, including calls for democratic changes of government, the constitution or the political system, or the pursuit of self-determination. They should not be used to prohibit insults to the honour and reputation of officials or State organs" (CCPR/C/GC/37, para. 49).

We would further like to recall that the Special Rapporteur on the right to freedom of peaceful assembly and of association has stressed in a report



(A/HRC/20/27), that States have a positive obligation under international human rights law not only to actively protect peaceful assemblies, but also to facilitate the exercise of the right to freedom of peaceful assembly. The law only protects assemblies that are not violent and where participants have peaceful intentions, and that shall be presumed. Therefore, acts of sporadic violence or other punishable acts committed by others do not deprive peaceful individuals of their right to freedom of peaceful assembly (para. 25) (A/HRC/23/39, para. 49). We therefore remain concerned with regards to the allegations that the violence that occurred during peaceful assemblies was engendered by acts from protesters, as this contravenes international human rights laws and standards.

We would also like to recall that “[t]he principles of necessity and proportionality apply to the use of all force, including potentially lethal force. Specific rules apply to the use of firearms for law enforcement, also during assemblies (Principle 9 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials). Firearms may be used only against an imminent threat either to protect life or to prevent life-threatening injuries (making the use of force proportionate). In addition, there must be no other feasible option, such as capture or the use of non-lethal force to address the threat to life (making the force necessary)” (A/HRC/31/66, para. 59). Moreover, “[f]irearms should never be used simply to disperse an assembly; indiscriminate firing into a crowd is always unlawful (see A/HRC/26/36, para. 75). Intentional lethal use of force is only lawful where it is strictly unavoidable to protect another life from an imminent threat; this is sometimes referred to as the protect life principle (ibid., para. 70)” (A/HRC/31/66, para. 60). We would also like to draw the attention of your Excellency's Government to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which provides that, “[l]aw enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms”.

In relation to the allegations of restrictions on access to justice for protesters, we would like to remind your Excellency's Government that “[a]ccess to justice, the rights to freedom of peaceful assembly and association, and the strengthening of civic space are inextricably linked” and that “barriers to access to justice should never be placed as deterrence measures undermining the essence of other rights” (A/HRC/47/24, paras. 20 and 22).

Finally, we would like to highlight that “neither preventive detention nor preventive identity controls, including stop and search, should be used to create a chilling effect on the right to freedom of peaceful assembly or to criminalize protesters” (A/HRC/47/24, para. 51), and that “necessary law enforcement measures targeted against specific individuals are preferred and, as far as possible, only towards people linked directly to violence, as such arrests might also be considered violations to freedom from arbitrary detention and freedom of movement CCPR/C/GC/37, para. 84)” (A/HRC/47/24, para. 55).