

**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**

Ref.: AL THA 6/2023  
(Please use this reference in your reply)

16 October 2023

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 50/17, 52/9 and 52/4.

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 and indiscriminate force by police during the Asia-Pacific Economic Cooperation summit in Bangkok, resulting in the injuries of protestors, journalists and human rights defenders.**

We would also like to recall the communications which were sent to your Excellency's Government on 17 September 2020 (AL THA 7/2020), on 11 January 2021 (AL THA 11/2020), and on 29 October 2021 (AL THA 6/2021). We thank Your Excellency's Government for the answer provided on 2 November 2021 (No. 52101/411), nevertheless we regret the lack of substantive answer to the communication on 29 October 2021 (AL THA 6/2021) mentioned above.

According to the information received:

From 16 to 18 November 2022, a coalition of pro-democracy civil society groups named "Rasadon Stop APEC 2022" participated in demonstrations, calling for the Prime Minister to step down from his role as the chairman of the APEC Economic Leaders' Meeting; demanding the dissolution of the parliament and the holding of an election; and opposing the Bio-Circular-Green (BCG) economic model. This model was up for endorsement at the Asia-Pacific Economic Cooperation ("APEC") summit, taking place on 18 and 19 November 2022 in the capital Bangkok. In anticipation of the protests, Thai authorities reportedly deployed police officers in large numbers to Bangkok from 11 to 19 November 2022.

During the morning of 18 November 2022, protestors of the "Rasadon Stop APEC 2022" movement began traveling from Lan Khon Mueang Town Square towards to the Queen Sirikit National Convention Centre. The protestors were stopped at Din Sor Road by the police, despite their prior notification to police on 17 November 2022<sup>1</sup> that they intend to march from the town square to the APEC summit venue.

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<sup>1</sup> Pursuant to Section 17 of the Public Assembly Act B.E. 2558, the Assembly of the Poor, one of the coalitions of the "Rasadon Stop APEC 2022" movement, reportedly notified Samran Rat Police Station of the movement's plan to march to the Queen Sirikit National Convention Centre from 07:00 a.m. to 06:00 p.m. During the confrontation on 18 November 2022, the police reportedly denied receiving this notification.

As the protestors attempted to move along Din Sor Road through police barricades, violence broke out between the crowd control police and the protestors. The police allegedly fired rubber bullets, wielded batons, and used tear gas to disperse the protest, resulting in at least 33 people being injured, including journalists who were reporting on the protest.

One of the protestors, **Mr. Payu Boonsophon**, was shot in the right eye by a rubber bullet, which reportedly blinded him in the eye and caused disfigurement. Another protestor, **Ms. Nattaporn Artharn**, was also shot with a rubber bullet above her eyebrow and was tackled on her arm, resulting in bruising, swelling, and other injuries. Additionally, several protestors, including **Ms. Jutamas Srihutthaphadungkit**, **Mr. Baramee Chairat**, and **Mr. Somboon Khamhang**, reportedly experienced verbal intimidation by the police.

Additionally, several journalists were allegedly injured by the police, with one journalist being hit by a police baton and kicked in the head while he was lying on the ground. Another journalist was also reportedly assaulted by police, and a photographer was injured due to a glass bottle allegedly thrown into the crowd by the police.

By the end of the day, at least 25 individuals, including civil society leaders and human rights defenders **Mr. Chatchay Thammo**, **Mr. Arat Sangubon**, **Mr. Baramee Chairat**, and **Mr. Jaykapun Phrommongkol**, were arrested by police and detained them at the Thung Song Hong Police Station. On 19 November 2022, all individuals were reportedly granted bail on a security of about 20,000 baht, and on the conditions that they do not participate in any further political protests and do not encourage others to assemble.

On 9 December 2022, the same 25 individuals were indicted by the Office of the Special Prosecutor, District Court 3 on three charges: (1) violation of section 215 of the Criminal Code, for illegal assembly of more than 10 persons; (2) violation of section 216 of the Criminal Code, for refusal to comply with an official's order to disperse illegal assembly; and (3) violation of the Public Assembly Act B.E. 2558 (2015), for failure to follow orders of competent officials supervising a public assembly. Investigations and preparations for their trials are underway.

Additionally, on 15 March 2023, four other protestors, including **Mr. Payu Boonsophon**, who was injured in his eye, and **Ms. Patsaravalee Tanakitvibulpon**, a citizen who participated in the protest, were charged by the police on similar grounds as the aforementioned 25 individuals. However, at the time this communication is sent, the four individuals have not been indicted by the prosecutor.

On 2 June 2023, the National Human Rights Commission of Thailand (NHRCT) issued a [statement](#) regarding the use of force by the Crowd Control Police against “Rasadon Stop APEC 2022” protestors, journalists and human rights defenders. The NHRCT expressed that Crowd Control Police used excessive force against the participants and called for an investigation.

While we do not wish to prejudge the accuracy and the veracity of the above-mentioned allegations, we are seriously concerned by the apparent excessive and indiscriminate use of force by the police, using rubber bullets, batons, and tear gas and resulting in severe injuries of protestors, journalists, and human rights defenders. We regret the fact that journalists were targeted, despite wearing visible press armbands. Should these allegations be confirmed, they would be in violation of international human rights law, in particular articles 6, 19, and 21 of the International Covenant on Civil and Political Rights (“ICCPR”), ratified by Thailand on 29 October 1996.

We further express serious concern about the arbitrary arrests and criminal charges brought against individuals for their participation in the “Rasadon Stop APEC 2022” protests. We recall that under international human rights law, protestors should not face criminal liability for their peaceful participation in an assembly or for expressing their opinion.

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/or comment(s) 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 in line with Thailand’s obligations under the ICCPR.
3. Please provide information on the investigation, if any, on journalists, human rights defenders and protestors injured by police during the clash on 18 November 2022, as well as measures taken to provide reparations, ensure victims’ access to justice, and prevent such injuries in the future.
4. Please provide information on the investigation, if any, on police’s alleged disproportionate use of force against protestors during the aforementioned protest, the sanctions adopted, and the measures taken to prevent human rights violations during peaceful demonstrations.
5. Please indicate what measures have been taken to ensure individuals, including civil society leaders, journalists and human rights defenders can exercise their right to freedom of peaceful assembly and freedom of expression free from intimidation or persecution, and in line with international human rights standards.

We would appreciate receiving a response within 60 days. Past 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, 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 19 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." 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).

We would like to remind your Excellency's Government that the Human Rights Council has urged States to "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 according to recommendations from the Special Rapporteur on the right to freedom of peaceful assembly and of association (A/HRC/20/27), 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 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”.

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).

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 and article 5 (a), which provides for the right to meet or assemble peacefully. We would also like to refer to the report of the former Special Representative of the Secretary-General on the situation of human rights defenders to the General Assembly in 2006 (A/61/312), where the Special Representative urges States to ensure that law enforcement officials are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies and to investigate allegations of indiscriminate and/or excessive use of force by law enforcement officials.