

URGENT ACTION

STUDENT ACTIVIST'S FIFTH BAIL REQUEST DENIED

On 1 February, on the expiry of his detention order, authorities are due to ask the courts permission to continue the detention of law student Jatupat Boonpattaraksa who may face up to 15 years' imprisonment for posting a BBC article on Facebook. The Khon Kaen Provincial Court revoked his bail on the basis they considered his subsequent social media comments that satirised authorities to be a threat to security.

Final-year law student and activist **Jatupat Boonpattaraksa's** fifth request for bail was denied on 19 January in a secret hearing before the Khon Kaen Provincial Court, in north-eastern Thailand. When the court refused members of the public, including the media, to attend the hearing Jatupat Boonpattaraksa (also known as Pai) sent his lawyers out of the courtroom in an act of protest. He has been detained in Khon Kaen Central Prison since 22 December 2016 and faces charges of violating Article 112 of the Thai Penal Code – Thailand's lèse majesté law - and the Computer Crimes Act for sharing on his Facebook account a BBC news article published on 1 December 2016. On 1 February, on the expiry of his detention order, authorities are due to ask the courts permission to continue Jatupat Boonpattaraksa's detention. He may face up to 15 years' imprisonment.

Jatupat Boonpattaraksa has reported that every time he is returned to Khon Kaen Central Prison, the authorities carry out an intrusive anal cavity search, ostensibly for drugs. Under international law and standards such searches may be undertaken only if absolutely necessary and must not be used to harass or unnecessarily intrude upon an individual's privacy. Conducting such searches in any other circumstances or manner violate the absolute prohibition on torture and other ill-treatment.

Due to his detention, Jatupat Boonpattaraksa was unable to attend a final law examination, which is required in order for him to graduate. While the Khon Kaen Provincial Court has allowed him to sit the exam in prison, leaving it to Khon Kaen University to arrange a date with prison officials, no such steps appear to have been taken.

Please write immediately in Thai or your own language:

- Urging the authorities to release Jatupat Boonpattaraksa immediately and unconditionally and stop all criminal proceedings against him;
- Expressing concern that Jatupat Boonpattaraksa is being targeted solely for the peaceful exercise of his rights to freedom of expression, association and assembly; and
- Calling on authorities to ensure that, pending his release, Jatupat Boonpattaraksa is not subjected to any treatment which may constitute torture or other cruel, inhuman or degrading treatment or punishment standards.

PLEASE SEND APPEALS BEFORE 10 MARCH 2017 TO:

Minister of Justice

Suwaphan Tanyuwardhana
Ministry of Justice
Government Centre Building A
120 Moo 3
Chaengwattana Road,
Bangkok 10210, Thailand
Fax: +66 2953 0503

Salutation: Dear Minister

Commissioner General of Royal Thai Police

Pol. Gen Chakthip Chaijinda
Royal Thai Police Headquarters
Rama 1 Rd, Pathum Wan
Bangkok, 10330
Thailand

Fax: +66 2251 4739

Salutation: Dear Commissioner General

And copies to:

Minister of Foreign Affairs

HE Don Pramudwinai
Ministry of Foreign Affairs
Sri Ayudhya Road
Bangkok 10400, Thailand
Fax: +66 2643 5320 / +66 2643 5314
Email: minister@mfa.go.th

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date. This is the first update of UA 290/16. Further information:

www.amnesty.org/en/documents/asa39/5412/2016/en/

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ADDITIONAL INFORMATION

After being detained on 3 December 2016, Jatupat Boonpattaraksa was released on a 400,000 Baht (US\$ 11,100) bail on 4 December 2016. On 22 December 2016, the Khon Kaen Provincial Court accepted Khon Kaen Police Station's request for Jatupat Boonpattaraksa's bail to be revoked on the basis that his social media comments satirised the authorities and returned him to detention. The court referred to Jatupat Boonpattaraksa's comments on his Facebook page stating that 'The economy is bad so authorities take my bail money'. Police officers at the hearing also said that the statement may "cause misunderstanding" for his 4,000 Facebook followers. They also highlighted the fact that he had not deleted his original post of the BBC article and that there was a risk he would carry on posting such messages and "cause more damage."

Jatupat Boonpattaraksa is a prominent activist who already faces charges for his peaceful protests for community rights and democracy in violation of an official ban on "political" gatherings of five or more person. He also faces charges for handing out materials urging voters to reject the draft constitution and for participating in a forum to discuss Thailand's draft constitution. He may face up to forty years' imprisonment should he be prosecuted in multiple cases for the peaceful exercise of his rights to freedom of expression, association and assembly. He was previously released from 19 days of detention on 23 August 2016 (see UA 191/16, available at: <https://www.amnesty.org/en/documents/ASA39/4644/2016/en/>).

Since taking power in a May 2014 coup, Thailand's military government has used the criminal justice system to harass activists and perceived critics, in violation of their obligations under international human rights law. They intensively targeted online speech as part of a broader crackdown on the rights freedom of expression, association and peaceful assembly. Scores of individuals – including politicians, musicians, poets, bloggers and editors – have been arrested or imprisoned for peaceful online expression, chiefly on Facebook for their public status updates, "likes", shares and private messages. Many of these individuals have been subjected to unfair trials in military courts under charges of computer crimes, sedition and offences against the monarchy, and some have been convicted and sentenced to decades of imprisonment.

Under Article 112 of the Penal Code – Thailand's lèse majesté law – anyone who "defames, insults or threatens the king, the queen, the heir-apparent or the regent" will be punished with between three and 15 years in prison. This provision has been used to penalise the peaceful expression of opinions, often in tandem with the Computer Crimes Act (2007), which allows for up to five years' imprisonment and/or a fine of 100,000 baht for anyone who puts material online that is related with an offence against Thailand's security.

Restrictive amendments were passed in December 2016 to the controversial cybercrime law – the Computer Crimes Act (2007) (see UA 225/16, available at: <https://www.amnesty.org/en/documents/ASA39/4944/2016/en/>) – which is already regularly used to prosecute and punish peaceful Facebook users. The amendments still allow for the prosecution of individuals and webhosts for the peaceful online exercise of rights guaranteed under the country's international human rights obligations and fail to address the law's inconsistency with these obligations, including the obligation to respect the right to privacy. The amendments also expand official investigatory powers for online activities, including by requiring service providers to retain user data for up to two years. The amendments expanded the power of officials to censor online materials, including those considered "false" or damaging to persons or the public.

Name: Jatupat Boonpattaraksa
Gender m/f: m

Further information on UA: 290/16 Index: ASA 39/5586/2017 Issue Date: 27 January 2017