

AMNESTY INTERNATIONAL PUBLIC STATEMENT

10 June 2017

Index: ASA 39/6480/2017

Thailand: Continuing Crackdown on Free Online Expression

Amnesty International is seriously concerned by continuing unrelenting measures by authorities in Thailand to suppress and penalise the peaceful exercise of the right to freedom of expression, including in online fora. On 9 June 2017, Thai courts passed verdicts in two criminal cases concerning the posting and sharing of materials that allegedly disparaged the monarchy. Earlier in the week, Thai authorities reportedly outlined imminent plans to require internet platforms to suppress content upon official request without prior judicial authorisation.

On 9 June 2017, the Bangkok Military Court handed down a record sentence of 35 years' imprisonment under Penal Code Article 112, Thailand's lèse majesté provision, which criminalizes insults to Thailand's monarchy. Wichai, the defendant in the case had been accused of creating a false Facebook profile in the name of another individual and posting content concerning the monarchy in order to implicate the individual in a lèse majesté offense. The accused was convicted on ten separate counts of violating Article 112. His original sentence of 70 years was halved because he pled guilty.

On the same day the Supreme Court upheld an Appeal Court ruling concerning the sentencing of Chaleaw, a tailor convicted of a lèse majesté offense. The Appeals Court had previously increased the individual's sentence from three to five years. His sentence was also reduced by half – to two-and-a-half years – because he entered a guilty plea. He had been charged under Article 112 after authorities concluded that he had downloaded political commentary critical of the monarchy. These materials were found on the individual's computer after he was detained with other political activists and perceived opposition sympathisers for "attitude adjustment" in the wake of Thailand's 2014 military coup.

Article 112 of the Penal Code allows for between three and 15 years' imprisonment of individuals who are deemed to have defamed, insulted or threatened the King, Queen, Regent or Heir Apparent. Article 112 criminalises and provides harsh penalties for the peaceful expression of views, as well as providing that anyone may file criminal complaints against another for alleged violations, making the law particularly draconian. Article 112 has been used to by individuals to settle personal scores and by the authorities as a tool to silence political opponents. Scores of individuals peacefully expressing personal opinions or disseminating information deemed critical of the monarchy have been targeted with prosecution under the law, and often sentenced to long years of imprisonment.

While international human rights law recognizes that restrictions may be impose on exercising the right to freedom of expression as provided for in Article 19 of the International Covenant on Civil and Political Rights, to which Thailand is a state party, these restrictions must be demonstrably necessary for and proportionate to certain permissible purposes, namely protecting specified public interests (national security, public order, or public health or morals) or the rights or reputations of

others.¹ The Human Rights Committee has explained that when public figures and institutions are concerned, protecting freedom of expression free from restrictions is particularly important,² Further, the Committee has stated that “the limits for acceptable criticism for public figures are wider than for private individuals”.³

Amnesty International calls on Thai authorities to halt all criminal proceedings against individuals under Article 112 of the Penal Code and release all individuals detained or imprisoned solely for offences under this Article. The Thai government should also take the long overdue step of amending or repealing Article 112 and other laws that violate Thailand’s obligations under international human rights law to protect freedom of expression and opinion.

The recent rulings come at a time when Thai authorities continue to crack down on political opponents, including by targeting individuals for their peaceful exercise of freedom of expression on Facebook and other online platforms. Authorities have sought to control online expression by investigating and prosecuting individuals who have shared, uploaded or even “liked” online materials shared by others. They have also increasingly sought the maximum criminal penalties allowed by law for these acts.

On 7 June, the Vice-Chairman of the National Broadcasting and Telecommunications Commission outlined further official plans to require online video-sharing platforms, including Facebook, to remove and censor online content without prior judicial authorisation and to impose financial penalties on them should they not comply.

Amnesty International calls on officials not to require internet platforms to take steps that unnecessarily or disproportionately restrict freedom of expression. In particular, authorities should not be permitted to censor content without prior judicial authorisation nor be allowed to penalize those who refuse to censor material in the absence of a court order. Amnesty International further urges Thailand’s courts not issue orders that conflict with Thailand’s obligations to respect and protect the rights to privacy and freedom of expression and opinion under international human rights law.

¹ See Human Rights Committee, General comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34, 12 September 2011, paras. 21-5

² *Ibid*, para. 38.

³ Concluding observations of the Human Rights Committee: Serbia and Montenegro, UN Doc. CCPR/CO/81/SEMO, 12 August 2005, para 22.