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Thailand: Lift rights restrictions that stifle dialogue during transition

Amnesty International calls on the Thai government to immediately lift arbitrary restrictions on the human rights to freedom of expression, peaceful assembly and association and to revoke the power of military authorities to enforce these restrictions through arbitrary arrest, detention and prosecution. The suppression of freedom of speech and other civil and political rights by Thai authorities is inconsistent with Thailand's obligations under international law and threatens to undermine a planned transition to civilian government.

Three-and-a-half years after a coup installed a military government in Thailand, extensive, arbitrary restrictions on the peaceful exercise of human rights remain in place. Speaking to journalists on 31 October, Prime Minister Prayut Chan-O-Cha declined to provide a timeframe for removing these restrictions, telling journalists, "I ask you to trust me. I myself am aware and thinking about this issue. But imagine if everything explodes! And you can see that today it is still unsettled. Lots of people are still slandering each other." His comments echoed those of other senior government officials who have refused to provide details on when restrictions might be lifted.

Following the passage of an organic law governing political parties on 8 October and the conclusion of a royal funeral for Thailand's late King Bhumibol Adulyadej at the end of the month, many political leaders have called for the lifting of vaguely-worded restrictions on political activities. The organic law sets strict deadlines for parties to register members and set up party structures ahead of elections the government has scheduled for November 2018.

On 20 May 2014, Prayut—then Commander-in-Chief of the Royal Thai Army—declared nationwide martial law throughout Thailand. Two days later, Prayut and other military leaders staged a coup and established the National Council for Peace and Order (NCPO), the military body that continues to govern Thailand. The declaration of martial law empowered military authorities to detain civilians violating military orders for up to seven days without judicial authorization or safeguards. Acting on the authority granted by martial law, the NCPO moved quickly to promulgate sweeping restrictions on a variety of human rights, including a ban on "political gatherings" of five or more persons. These restrictions have been used, among other things, to arrest and prosecute student activists and others participating in peaceful protests. The NCPO also passed wide-ranging orders giving military officers extensive law-enforcement powers and granting military courts jurisdiction in cases involving civilians. NCPO leaders described these as temporary measures necessary to restore stability in the country.

On 1 April 2015, the NCPO revoked martial law. However, Prayut, using the power to rule by decree granted to him under Article 44 of the military-drafted interim constitution, immediately issued Head of NCPO Order No. 3/2015, which replicated several of the most severe elements of martial law. In particular, the order maintained the ban on political gatherings of five or more persons, imposing a penalty of up to six months in prison and a fine of 20,000 Thai baht (US\$600) on those who assemble in violation of the order. The order also authorized the continued exercise of law enforcement powers by military officers in matters involving the monarchy, state security, weapons offenses and violations of NCPO decrees. In March 2016, Head of NCPO Order No. 13/2016 further extended these powers to cover the enforcement of 27 categories of crimes including human trafficking, sex work, immigration, tax, labour, motor vehicle and narcotics violations, and threats to

public order. These measures remain in place and continue to be used to arrest and detain activists, journalists, politicians and others peacefully expressing opinions on the street, on television, in print and online.

In September 2016, Head of NCPO Order No. 55/2016 revoked the jurisdiction of military courts over cases involving civilians. However, the order was not retroactive, and hundreds of civilians continue to face trials in military courts in relation to events that occurred prior to the order.

The NCPO has also used its unchecked powers to restrict the media and stifle freedom of expression. In the immediate wake of the coup, the NCPO temporarily shut down broadcast television stations and issued announcements setting forth blanket restrictions on content in print, broadcast and social media. These decrees prohibited, among other forms of speech, the sharing of opinions critical of the military government and monarchy as well as the dissemination of information likely to cause “unrest”, “confusion” or “distortion of information”. Head of NCPO Order No. 41/2016, issued in July 2016, authorized the National Broadcast and Telecommunications Commission (NBTC) to impose bans on media outlets that present content that violates NCPO decrees or threatens national security. The order also shielded the NBTC from liability for exercising its authority under the order. These decrees have been used to impose temporary bans on news outlets that have presented information deemed to be critical of the military government or monarchy. The licenses of broadcasters—notably Voice TV and Peace TV—have been suspended for up to 30 days, and specific news programs taken off the air, after reporting on human rights concerns and other sensitive matters.

Thai authorities have enforced arbitrary restrictions on the freedom of expression, peaceful assembly and association, including by targeting individuals perceived as opponents of the military government. Political activists, journalists, human rights defenders and others have been arrested and faced criminal prosecution under restrictive NCPO decrees for peacefully exercising these rights.

The NCPO has also enforced broadly worded restrictions on “political activities” against individuals released from arbitrary detention, including those detained for up to seven days during “attitude adjustment” sessions by military authorities. Under NCPO Announcement 39/2014 and Head of NCPO Order No. 3/2015, in order to secure their release, detainees have been forced to sign agreements stating that they will not participate in political activities. Violations of these agreements carry a penalty of up to two years’ imprisonment and a fine of up to 40,000 Thai baht (US\$1,200). Authorities have characterized a wide range of peaceful acts, including criticism of government officials, as violations of release agreements and have laid charges against individuals on this basis. Individuals released from periods of arbitrary detention have also been prevented from traveling abroad.

Restrictions imposed by the NCPO since the 2014 military coup constitute violations of Thailand’s obligations to respect, protect and fulfil the rights to freedom of expression, assembly and association. They fail to adhere to the principles of legality, necessity and proportionality governing restrictions of rights under international law. Moreover, the unaccountable powers granted to military authorities facilitate arbitrary arrest and detention and leave individuals vulnerable to torture, ill-treatment and other human rights violations. Military courts’ exercise of jurisdiction over civilians violates their right to a fair trial.

It is imperative that the Thai government immediately repeal orders and decrees that unlawfully restrict human rights. The enjoyment of human rights—including the rights to freedom of expression, peaceful assembly and association—is necessary for Thai citizens to be able to participate in political processes and contribute to discourse on matters of vital public interest. Such a discourse can only be meaningful when carried out in a non-threatening atmosphere, in which the rights to freedom of expression, peaceful assembly, and association are fully respected and protected.