

AMNESTY INTERNATIONAL PUBLIC STATEMENT

27 March 2020

Index: ASA 39/2042/2020

Thai Authorities' Covid-19 Response Must Not Lead to Unwarranted Restrictions On Human Rights and Freedom Of Expression

The Thai government should ensure that the Emergency Decree on Public Administration in Emergency Situation (2005) to respond to the COVID-19 pandemic does not impose unwarranted restrictions on human rights, Amnesty International said today. International standards require that Thai authorities should review their use of emergency powers to address COVID-19 to ensure they are temporary, exceptional, proportionate, necessary and non-discriminatory and are not used to arbitrarily restrict rights such as freedom of expression and freedom of information.

On 24 March, the Royal Thai Government announced that it would declare a State of Emergency to respond to the ongoing COVID-19 pandemic. On 25 March, it articulated a series of restrictions on movement, assembly, privacy, and freedom of expression, with penalties of imprisonment and/or fine, to come into effect on 26 March 2020. Authorities granted officials powers under Article 9 of the 2005 Emergency Decree to censor or edit information they deem to be false or distorted with the potential to create public fear or misunderstanding. The announcement mandates officials to charge individuals under the Computer Crimes Act, or under the Emergency Decree, which allows for up to two years' imprisonment and/or up to 40,000 Thai Baht (US \$ 1,224 equivalent) fine.

Censorship

Government statements at a press conference on 25 March that they would restrict the media to only reporting official information on COVID-19 and prosecute individuals whose statements are deemed critical of authorities' COVID-19 response are of particular concern. At the press conference Prime Minister Prayut Chan-O-Cha stated that journalists would be prevented from interviewing officials and medical personnel and restricted to only covering information disseminated at official press conferences. Prime Minister Prayut Chan-O-Cha's warning to "be careful about what they post on social media", and threats of prosecutions for "abuse of social media" at a separate press conference on 24 March 2020 also fuel fears that authorities plan to disproportionately restrict online expression about COVID-19.

Curbs on Freedom of Expression

Amnesty International is concerned that authorities have invoked emergency powers placing restrictions on the right to freedom of expression, allowing for censorship and prosecution of individuals who disseminate news that authorities deem "false or might instigate fear amongst the public or that is intentionally distorted".

The organization calls on authorities to amend this prohibition and ensure that enforcement of the Emergency Decree does not arbitrarily restrict people from speaking about or reporting on matters that affect them, including online, in violation of their rights to freedom of expression. This includes criticising official policies and how authorities enforce the, nor expressing differing views.

Overbroad legislation

Amnesty International is further concerned that authorities have been imposing excessive checks on freedom of expression online. Officials are already using the Computer Crimes Act and other legislation to harass individuals. Their vaguely worded provisions give excessive scope for prosecutions that violate Thailand's obligations to uphold freedom of expression.

On 24 March authorities charged Danai, an artist based in Thailand's southern province Phuket, for commenting on the apparent absence of health checks in place on arrival at Suvarnabhumi Airport. After posting on his Facebook account "Zen Wide," the artist was charged with "importing false information deemed likely to cause public disorder on the Internet" under Section 14(2) of the Act.

Authorities should ensure that the powers they have announced to track and surveil mobile phone activity

conform with human rights principles. While governments can implement measures to gather epidemiological information, states must protect the personal information of patients and their dignity and any surveillance or tracking measures must meet the test of being legitimate, necessary and proportionate, and non-discriminatory. Authorities must ensure that any powers that they introduce for the tracking of mobile phones are in conformity with these principles. The COVID19 pandemic cannot serve as an excuse for indiscriminate mass surveillance of any kind, any surveillance measures brought in must be time-bound, and only continue for as long as necessary to address the current pandemic.

Refugees and Asylum-seekers

Amnesty International also calls on the government to ensure that refugees and asylum-seekers are protected from being returned to places where they would be at risk of persecution.

International Legal Standards

The Thai government, as a State party to the International Covenant on Civil and Political Rights, is obliged to ensure that only measures derogating from the Covenant's provisions that are "strictly required by the exigencies of the situation" are allowed. During previous periods of emergency, authorities have imposed arbitrary and sweeping measures that have allowed for restrictions that go beyond what may be permissible under international human rights law, which have been in place for excessively lengthy periods. UN human rights bodies have repeatedly advised Thai authorities of the need to amend emergency laws, including the Emergency Decree, which has been used to censor and undermine freedom of expression and the media in the country.

Background

Section 9(3) of Thailand's Emergency Decree on Public Administration in Emergency Situation (2005) grants powers to "prohibit the press release, distribution or dissemination of letters, publications or any means of communication containing texts which may instigate fear amongst the people or is intended to distort information which misleads understanding of the emergency situation to the extent of affecting the security of state or public order or good moral of the people both in the area or locality where an emergency situation has been declared or the entire Kingdom".

Section 14(2) of Thailand's Computer Crime Act carries a maximum sentence of five years' imprisonment and/or a fine not exceeding 100,000 Thai Baht (approx. USD 3,060).