



## THAILAND

YOUTH CSO JOINT SUBMISSION TO  
THE UN UNIVERSAL PERIODIC REVIEW

# FREEDOM OF EXPRESSION AND ASSEMBLY OF YOUTH ACTIVISTS AND THE PROTECTION OF YOUTH HUMAN RIGHTS DEFENDERS

39TH SESSION OF THE WORKING GROUP





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**This submission is a joint submission by the below youth-led civil society organizations (CSOs) that mobilize and drive peaceful demonstration in Thailand.**

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3. Student Union of Thailand (SUT)
4. Bad Students
5. The Ratsadon
6. UNME of Anarchy
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## Introduction

1. In the five years since the 2<sup>nd</sup> Cycle of the Universal Periodic Review (UPR), human rights situation in Thailand has alarmingly worsened after the 2014 coup led by the Royal Thai Armed Forces and Prayut Chan-o-cha, Commander of the Royal Thai Army (RTA). Despite accepting various recommendations to ensure the protection of human rights, the Thai state, however, has consistently been implementing draconian laws in violation of human rights, namely freedom of speech and peaceful assembly amongst several others. The military established a junta called the National Council for Peace and Order (NCPO) to govern the nation following the 12<sup>th</sup> coup d'état in Thailand. The country has been put under the declared martial law and curfew nationwide, banned political gatherings, arrested and detained politicians and anti-coup activists, imposed Internet censorship and took control of the media. The junta seized power for 5 years. With national and international pressure, the NCPO was forced to facilitate election's in 2019 with an undemocratic system and rules mandated under the constitution written in 2017 by the NCPO-appointed Constitution Drafting Committee (CDC). This constitution was designed to specifically favour the junta's proxy party and restore their power under the guise of a democratic government through a junta-appointed senate and the Election Commission and Constitution Court. The fraud and undemocratic election gave Prayuth Chan-o-cha another 4 years as a prime minister of Thailand despite his ineligibility and illegitimate acts, which are supposed to disqualify him as a prime ministerial candidate. The corrupt election, the dissolution of the Future Forward Party, the forced disappearance of Wanchalearm Satsaksit, the economic depression and Covid-19 situation fueled the gathering of pro-democratic demonstrators in 2020.

2. In the wake of political demonstrations in Thailand starting back in July 2020 to call for the resignation of Prime Minister Prayuth Chan-o-cha, revision of the current undemocratic military-drafted constitution to push for greater participatory democracy, and reform of the monarchy to subject it to legal, political, and fiscal oversight; thousands of Thai people have joined youth-led pro-democracy peaceful protests in Bangkok<sup>i</sup> as well as various cities all over the country. The essential driving forces of the pro-democracy protests are youth and children. They play a vital role as protest leaders, frontliners and demonstrators. The majority of people participating in the protest are mostly youth and children.

3. Rather than implementing the necessary measures to guarantee and protect the freedom of expression and peaceful assembly of all Thai citizens, the government has manifestly taken a stance against the fundamental human rights of the citizens by imposing excessive restrictions and draconian policies. At least 220 individuals have been either arrested in relation to the protests. Some are still held under indefinite detention, and some have been charged under Thailand's Criminal Code on counts of sedition and holding and "illegal assembly". Some have also been charged under the Computer Crimes Act for using their social media accounts to call the public to participate in the rallies. At least 70 individuals including youth and children have been charged with the lese-majeste law. Two face lifetime jail sentences for allegedly being accused of using violence against the monarchy.

4. The Thai state has failed to protect human rights and failed to prevent human rights violations particularly on civil rights, freedom of expression and assembly. The Prime Minister announced the state would impose every measure to dissolve the pro-democracy demonstration. Chemical-laced tear gas solution and water cannon, which cause skin irritation, have been used repeatedly to disperse the demonstrators with an increasing use of rubber bullets and surge of forceful violence against the youth protesters, some have reportedly been shot even in school uniform or forcefully dragged and beaten by a group of riot police, some have been unlawfully arrested and taken under indefinite detention with limited access to fair trials and processes of criminal justice. In addition to the alarmingly escalating police brutality, pro-democracy protesters have also become victims of gun and physical violence by ultra-royalist and pro-military groups who are treated with respect and civility by the police in contrast to the unjustifiable abuse and violence that pro-democracy protesters receive.

5. In this submission, the authors highlight some of the key human rights issues in relations to political activists and human rights defenders, analyze Thailand's progress on recommendations made by member states during the UPR 2<sup>nd</sup> Cycle and make recommendations for the 3<sup>rd</sup> Cycle. It will illustrate issues related to freedom of expression and freedom of assembly, the enforcement of lese-majeste law, Human rights defenders, and Enforced disappearances.

### **Freedom of expression and peaceful assembly**

6. Thailand accepted 13 recommendations, out of 24 recommendations provided by member states during the 2<sup>nd</sup> Cycle of the UPR in 2016 in regards to freedom of opinion and expression. Regarding the peaceful assembly, Thailand supported the recommendation from Costa Rica to "Take measures to ensure the rights of peaceful assembly, freedom of expression and freedom of assembly, especially in the context of peaceful protests."<sup>ii</sup> Yet, since the previous UPR cycle, Thai government has imposed excessive restrictions on the freedom of peaceful protest and has unjustifiably launched assaults against unarmed, peaceful pro-democracy protesters with chemical-laced water cannons and tear gas grenades<sup>iii</sup>, which caused a strong burning sensation.<sup>iv</sup> Moreover, Thai armed forces have also used rubber bullets with excessive violence to disperse the crowd in violations of international law, resulting in severe injuries among the unarmed protesters<sup>vi</sup>, most of whom are children and youth as young as 14 years old, along with some members of the press and a medical volunteer who, like many of the protesters, was beaten till unconscious by Thai riot police<sup>vii</sup> who later arrested then forcibly kept the protesters under unlawful detention at the Border Patrol Police Region 1 barracks.<sup>viii</sup>

7. Despite the fact that Thailand accepted the recommendation from Guatemala to "Respect fully press freedom and freedom of expression in accordance with international law."<sup>ix</sup> Thai government has imposed censorship that violates the right of expressions and media freedom in Thailand. The government has requested to shut down the media channel, including online

platforms, that report and provide the information related to pro-democracy protests. The live streaming of pro-democracy was declared illegal, as well as posting contents or pictures at the area of the protest.<sup>x</sup>

## Lèse-majeste Law

8. Article 112 of Thailand's criminal code concerns offences deemed to defame, insult or threatens the King, the Queen, the Heir-apparent, or the Regent, shall be sentenced to jail for 3 to 15 years.<sup>xi</sup> With its high penalty rate, ambiguous interpretation and unjust enforcement, Article 112, which can be arbitrarily invoked by any ordinary person against others, has become a legal weapon to crack down on political opponents and limit freedom of expression. Subsequent to the 2016 military coup, Thailand saw a sharp rise in article 112 charges to more than 169 cases<sup>xii</sup> with unfairly limited access to justice under junta rule. In addition, at least over 68 more pro-democracy protesters including 6 youths under 18 and children as young as 14 years old<sup>xiii</sup> have faced Lèse-majesté charges following the wave of political demonstrations in Thailand from July 2020 with alleged crimes such as spray-painting, wearing crop-tops, or participating in a fashion show mocking the royal family's fashion style. Moreover, the conviction of Anchan Preeert to 87-year imprisonment, the longest prison sentence under Section 112 to date, in relation to online content allegedly insulting the monarchy and the case of Chayapol Chatchaidej, who was falsely charged with this law despite concrete and tangible proof of his innocence, are the clear examples of draconian state abuse using Article 112 as a political instrument against pro-democracy protesters.

9. Due to the disproportionate prosecution through the current use of Article 112, it resulted in the violation of the ICCPR (International Covenant on Civil and Political Rights) upholding freedom of expression, which Thailand ratified in 1996<sup>xiv</sup> More importantly, the article 112 has marked as a major cause to enforced disappearance of Thai pro-democracy activists. The recent incident supporting this statement happened on January 13, 2020, when a 21-year-old student accused of defaming His Majesty the king, Sirichai Nathuang, was abducted from his resident in the middle of the night. Parit Chivarak, one of the student protest leaders, is forcibly put in jail with the capital punishment prisoners, and also Panusaya Sithijirawattanakul, a student protest leader, faced detention from the violation of article 112.

10. Thai government and authorities have repeatedly criminalized peaceful pro-democracy protests through Thailand's vaguely worded and draconian laws. At least 220<sup>xv</sup> protesters have been charged under Thailand's Criminal Code on counts of sedition and holding and "illegal assembly", under the Computer Crimes Act for using their social media accounts to call the public to participate in the rallies and Article 112. More than 167 protesters have been arrested including Youth and Children protesters. Instead of uphold the right to the presumption of innocence, provide the Rights of the Accused and ensure all fair trial procedures, Thai court and Thai governments decided to send all pro-democracy to pretrial detention.

## Children and youth human rights defenders

11. During the 2<sup>nd</sup> Cycle of UPR, Thailand accepted all the six recommendations regarding human rights defenders. Among these recommendations includes Czech Republic recommendation to “Stop all forms of harassment and intimidation of human rights defenders and effectively implement measures aimed at preventing violence and crimes against them.”<sup>xvi</sup> Nevertheless, Thai government has threatened to use all possible laws and measures against the pro-democracy protesters<sup>xvii</sup> including child and youth human rights defenders who have faced incessant threats and harassment by the government and authorities<sup>xviii</sup>, which continue to unlawfully monitor or intimidate the students and youth protesters in order to restrict their freedom of expression and peaceful assembly. A total of 103 harassment incidents against students across the countries have been reported and at least 382 people, including 13 children, have been charged over the protests since July 2020, according to Thai Lawyers for Human Rights.<sup>xix</sup>

12. In regard to the brutal arrests of pro-democracy protesters with draconian legal action, the failed judicial system in Thailand has resulted in unfair and discriminatory processes of criminal justice in the legal system from unwarranted arrests to unfair prosecutions. Despite Thailand’s commitment to effectively implement its Policies and Strategies for the Prevention and Responses to Violence against Children and Youth<sup>xx</sup> as recommended by Singapore and Sudan during the 2<sup>nd</sup> Cycle of UPR, youth and children activists not only have faced violent crackdowns from armed forces but also unlawful arrests and difficulties accessing their legal rights to fair trials and criminal procedures such as requests for lawyers or legal counsel, psychologists and social workers. Moreover, at least 3 of the youth protest leaders whose bails were denied have recently been sent for indefinite pre-trial detention against the presumption of innocence, which ensures the right to be presumed innocent until proven guilty. Children at the age 14 to 16 faced arbitrary arrest and detention. The government and authorities have intentionally misconducted the Thai criminal procedure code due to their absence of warrant and the instant force detention or imprisonment of the pro-democracy protesters including youth and children. These are the vivid scenarios portraying that Thailand has violated Article 15 protects children’s right to freedom of peaceful assembly and Article 37 forbids countries to arbitrarily arrest and detain children under the International convention on the Rights of the Child.

## Enforced disappearances

13. Thailand accepted ten specific recommendations in favour of disappeared persons.<sup>xxi</sup> Thai government, however, has been involved with the issue of enforced disappearances of human rights defenders and Thai pro-democracy activists. 86 activists were allegedly tortured and enforced disappearances since 1980<sup>xxii</sup>, up to the present time, Wanchalearm Satsaksit, Thai pro-democracy who had lived in exile in Cambodia was enforced disappeared in July 2020<sup>xxiii</sup> Despite Thailand’s obligations under the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture (CAT)<sup>xxiv</sup>, the guarantee of Thai human

rights defenders' safety is in peril in the absence of ratifying the International Convention of the Protection of All Persons from Enforced Disappearance (ICPPED). The concerns of enforced disappearance have become more visible in the present day, at least 2 pro-democracy protesters were threatened and abducted by state security officials in the night time of January 15, 2021 and January 16, 2021.

## **Recommendations to the Government of Thailand**

- I. Ensure the protection of civil and political rights by ensuring that the constitutional framework is in compliance with its international obligations, in particular under the International Covenant on Civil and Political Rights. Carry out the necessary legal reform to fully guarantee freedom of speech, freedom of expression, and the rights of peaceful assembly.
- II. Take the necessary measures to immediately ratify the international convention for the Protection of All Persons from Enforced Disappearance and pass national law criminalizing enforced disappearance and torture and recognizing the rights of victims.
- III. Ensure that there are no restrictions on freedom of expression especially for the media and human rights defenders, and that no one faces threats and harassment for expressing their views and that all legislation affecting freedom of expression is compatible and implemented in line with Thailand's international obligations as recommended by the Special Rapporteur on the situation of human rights defenders.
- IV. Abolish article 112 Lèse-majesté legislation of Thailand's Criminal Code to remove prison terms for offences stemming from the legitimate exercise of the right to freedom of opinion and expression and ensure that the prohibited acts are unambiguous and that sanctions are proportionate to the act committed.
- V. Immediately release people who have been charged and/or jailed under section 44 of the 2014 interim constitution, the Computer Crimes Act, and articles 112 and 116 of the Penal Code and unconditionally expunge sentences, quash convictions, and drop charges against anyone prosecuted for such acts. Ensure that human rights defenders in Thailand are treated in accordance with the General Assembly Declaration on Human Rights Defenders and ensure justice to all reported cases of intimidation, harassment and attacks on human rights defenders. All alleged attacks on human rights defenders are promptly and thoroughly investigated, and that perpetrators are held accountable. Take necessary measures to ensure the rights of the accused, including having a lawful procedure, ensuring safety, provision of bail as based on rules of law.
- VI. Rigorously implement policies and measures to ensure that the rights of youth and children are protected and respected and strengthen mechanisms to promote the rights of youth and children as human rights defenders.



## Endnote

- <sup>i</sup> “Thailand protests: Thousands join huge rally demanding reforms” BBC, September 19, 2020, <https://www.bbc.com/news/world-asia-54217284>
- <sup>ii</sup> “Thailand: Rights Crisis Rapidly Worsens”, Human Rights Watch, January 13, 2021, <https://www.hrw.org/news/2021/01/13/thailand-rights-crisis-rapidly-worsens>
- <sup>iii</sup> Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/33/16, July 15, 2016, Para. 158.141. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/154/74/PDF/G1615474.pdf?OpenElement>
- <sup>iv</sup> “Police fire water cannon at pro-democracy protesters in Bangkok” Prachatai, October 17, 2020, <https://prachatai.com/english/node/8849>
- <sup>v</sup> “Thailand: Protect Protesters, Facilitate the Right to Peaceful Assembly” FORTIFY RIGHTS, November 18, 2020, <https://www.fortifyrights.org/tha-inv-2020-11-18/>
- <sup>vi</sup> “Thai Police Use Tear Gas, Rubber Bullets to Break up Protest” Associated Press, Wire Service Content, March 21, 2021 <https://www.usnews.com/news/world/articles/2021-03-20/thai-police-use-tear-gas-rubber-bullets-to-break-up-protest>
- <sup>vii</sup> “Police condemned for beating volunteer medic” <https://www.bangkokpost.com/thailand/politics/2068055/police-condemned-for-beating-volunteer-medic>
- <sup>viii</sup> “18 detained protesters deny charges” Mar 7, 2021 <https://www.bangkokpost.com/thailand/politics/2079675/18-detained-protesters-deny-charges>
- <sup>ix</sup> Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/33/16, July 15, 2016, Para. 158.131. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/154/74/PDF/G1615474.pdf?OpenElement>
- <sup>x</sup> “Thailand: Outspoken TV Channel Banned” Human Rights Watch, October 21, 2020, <https://www.hrw.org/news/2020/10/21/thailand-outspoken-tv-channel-banned>
- <sup>xi</sup> “Lese-majeste explained: How Thailand forbids insult of its royalty” BBC, October 6, 2017, <https://www.bbc.com/news/world-asia-29628191>
- <sup>xii</sup> “คดีความไต่ยุติ คสช.: ฐานข้อมูลคดี 112” [Criminal Cases in the Era of NCPO: Article 112 Case Law Database], TLHR, December 3, 2019, <https://tlhr2014.com/archives/14840>
- <sup>xiii</sup> “สถิติผู้ถูกดำเนินคดีมาตรา 112 “หมิ่นประมาทกษัตริย์” ปี 2563-64” [Statistics on Article 112 Charges: Royal Defamation (2020 – 2021)], TLHR, December 16, 2020, [https://tlhr2014.com/archives/23983?fbclid=IwAR2JDco4jvsDuZENrk5cLI2xTRPa2x7JFOrLLlCdrVmaL5\\_-laELnk7Ja0](https://tlhr2014.com/archives/23983?fbclid=IwAR2JDco4jvsDuZENrk5cLI2xTRPa2x7JFOrLLlCdrVmaL5_-laELnk7Ja0)
- <sup>xiv</sup> UN General Assembly, “International Covenant on Civil and Political Rights”, United Nations, December 16, 1966 Treaty Series, vol. 999, p. 171
- <sup>xv</sup> “มีอับราชฎ ถูกดำเนินคดีแล้ว 220 คน "เพนกวิ้น" โดนหนักสุด 29 ข้อหา” [220 Ratsadon Protesters Criminally Charged While “Penguin” Facing 29 Charges], Thairath, December 8, 2020, <https://www.thairath.co.th/news/politic/1991175>
- <sup>xvi</sup> Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/33/16, July 15, 2016, Para. 158.120. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/154/74/PDF/G1615474.pdf?OpenElement>
- <sup>xvii</sup> Panarat Thepgumpanat and Chayut Setboonsarng, “Thai PM threatens to use all laws against protesters” Reuters, November 19, 2020, <https://www.reuters.com/article/us-thailand-protests/thai-pm-threatens-to-use-all-laws-against-protesters-idUSKBN27Z0H9>

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- <sup>xviii</sup> James Wilson and Cod Satrusayang, “Intimidation and Harassment: Thai student leaders face a paranoid state threatened by their protests” Thai Enquirer, June 19, 2020, <https://www.thaienquirer.com/14646/intimidation-and-harassment-thai-student-leaders-face-a-state-threatened-by-their-movement/>
- <sup>xix</sup> “Thailand: Rights Crisis Rapidly Worsens”, Human Rights Watch, January 13, 2021, <https://www.hrw.org/news/2021/01/13/thailand-rights-crisis-rapidly-worsens>
- <sup>xx</sup> Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/33/16, July 15, 2016, Para. 158.92. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/154/74/PDF/G1615474.pdf?OpenElement>
- <sup>xxi</sup> Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/33/16, July 15, 2016, Para. 158. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/154/74/PDF/G1615474.pdf?OpenElement>
- <sup>xxii</sup> “Thailand: ICJ calls for justice for victims on the International Day of the Disappeared” ICJ, September 2, 2019, <https://www.icj.org/thailand-icj-calls-for-justice-for-victims-on-the-international-day-of-the-disappeared/>
- <sup>xxiii</sup> George Wright and Issariya Praithongyaem “Wanchalearm Satsaksit: The Thai satirist abducted in broad daylight”, BBC News, July 2, 2020, <https://www.bbc.com/news/world-asia-53212932A>
- <sup>xxiv</sup> “THAILAND: MAKE ENFORCED DISAPPEARANCE A CRIME UNDER NATIONAL LAW” AMNESTY INTERNATIONAL, August 30, 2019, <https://www.amnesty.org/en/press-releases/2019/08/thailand-enforced-disappearance-a-crime-law/>