

THAILAND

Health Crises: Pandemics

A. In what ways have you observed or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?

The coronavirus pandemic has caused a serious impact on Thailand, particularly on the human rights front. At the beginning, Thailand appeared to be able to handle the spread of virus considerably well, with a low rate of infection among its population. However, even at this low level of infection, the Thai government under the premiership of General Prayuth Chan-ocha disallowed public gatherings citing health reasons.

In reality, the government exploited the coronavirus to curb the looming anti-regime demonstrations. In March 2020, a group of anti-government protesters expressed its anger at the seemingly unfair court verdict against the Future Forward Party, a new political party offering progressive reforms. The Thai court, in collaboration with the government, ordered the dissolution of the party, accusing its leader, Thanathorn Jungroongruangkit, of lending his funds to his own party. This verdict, perceived to be politically motivated, drove Thais to protest against the judicial system. But the timing of the protest coincided with the first outbreak of coronavirus. A state of emergency was announced and notified to the UN, and curfews were implemented. In the end, the government's measures effectively brought the demonstrations to a halt.

Several months later in June 2020, the protests returned. This time, Thais protested in part against the state's alleged abduction and disappearance of a Thai activist in exile in neighbouring Cambodia, Wanchalerm Satsaksit. Soon, the protests' objective shifted to a call for immediate reforms of the monarchy (based on the belief that the palace might be responsible for the abduction of Wanchalerm who was regarded as anti-monarchist). Again, this time, the Prayuth government exploited COVID-19 to ban all the gatherings in public. Some activists were arrested for violating the ban imposed by the government, even when in fact they were arrested for a political reason.

B. What types of measures have you observed or do you have knowledge of being taken in response to such situations, that impact on assemblies and other relevant human rights?

The government has employed several measures in regard to the management of the COVID-19 pandemic, which has affected human rights. It is imperative to assess this issue from two perspectives.

First, as mentioned in (A) above, the street protests at the height of the pandemic allowed the Thai government to impose measures that breached civil liberty in the name of public health even when it was motivated by politics. Measures included the announcement of state of emergency and curfews (all public assemblies being banned) and the right to arrest those violating the state of emergency and/or to fine them.

Second, in terms of managing the pandemic itself, the government has shown its inability and ineffectiveness, which compromised the state of health of Thai people. For instance:

- Thais have little information about facts on COVID-19 and about the number of those infected, or killed, by the virus.
- Information on the government's procurement of vaccines has been inaccessible to the public.
- Thais do not know why the government has imported a large amount of Sinovac vaccines. Some analysts linked the import of Sinovac vaccines with the Prayuth government's pro-China policy, hence unraveling conflict of interests at the expense of the lives and safety of the people.
- The effectiveness of Sinovac vaccines has been an issue highly debated.
- Despite importing large amount of Sinovac vaccines, it appeared that they are inadequate to respond to the need of Thais.
- There is no system in place in terms of priority for those receiving vaccines.
- Access to vaccines has been problematic. Thais wondered why the government refused to import "better" and "more efficient" vaccines, like Pfizer or Moderna. A member of the former Future Forward party exposed a story of the palace's involvement in the procurement of Sinovac, highlighting a possibility of corruption.
- Meanwhile, the government has allowed some private companies to import other vaccines, including Pfizer and Moderna, for sale in Thailand. The access to "better" vaccines (through the sale) prevents those in the lower rung of the society from getting them.

All of these issues have generated a crisis of human security, which in turn violated human rights. One important point concerns the economic (in)security of the people, since all businesses, particularly small and medium, were forced to close down. The lack of income and any financial support from the government has engendered economic hardship among Thais.

C. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly, amongst other relevant human rights, being violated in such a context, or do you imagine it might be violated?

The issue of COVID-19 pandemic has become a political issue. Peaceful assemblies among Thais, in calling for monarchical reforms and for the resignation of the prime minister, have been banned. Lately, even protests against the government's failure in handling the COVID-19 situation (which by nature were not anti-monarchy protests) have also been dealt with in a similar way. In short, public gatherings are forbidden. As the new wave of pandemic occurred in late July 2021, the government decided to implement curfews and ban all outdoor activities after 8 pm. Police are deployed throughout several large cities (these police were seen carrying guns). Under the current curfews (still in effect), people are not allowed to carry out activities, regardless of whether they are peaceful or whether they are apolitical.

D. What good or promising practices have you observed or do you imagine might be possible that would help to ensure the right to freedom of peaceful assembly, amongst other relevant human rights, is better respected, protected and/or fulfilled in such a crisis context?

The problem with human rights is twofold. On the one hand, it is linked to domestic politics in Thailand: the power relations between the state and the people. On the other hand, it concerns the mismanagement of the pandemic situation on the part of the government. For the latter, the lack of access to vaccines is already a violation of human rights.

There is a role that foreign governments and international organisations can play in order to ensure the protection of human rights in Thailand. They may consider supporting the people sector through the works of CSOs and NGOs, especially in reaffirming the right to peaceful assembly of the people. The support of the people sector should not only be restricted to political demands but should also be expanded to cover the promotion of accessible healthcare in Thailand. Prime Minister Prayuth highlighted the achievements of Thailand's universal health coverage at the 74th Session of the United Nations General Assembly (UNGA 74) in New York in 2019. He said the government has promoted equality in access to public health services in all areas, including health promotion, disease prevention and treatment of chronic and costly diseases. It is evident that the prime minister has failed in his task. The role of United Nations is crucial in reminding the commitment of Thailand on making it possible the equal access to public health services.

Social & Political Crises: Related to Major Political Contestation, Coup d'état

A. In what ways have you observed or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?

Thailand had endured months-long protests since the middle of 2020 before it came to an end in the first quarter of 2021. Protesters called for immediate reforms of the monarchy, an issue that has remained extremely sensitive and off-limits in Thailand. Hence, the Thai government attempted to curb public gatherings citing that they threatened the very existence of the monarchy. One tactic used by the government, in breaking up the protests, was to employ the *lèse-majesté* law (Article 112 of the Criminal Code) to silence the protesters. *Lèse-majesté* law forbids insults against certain members of the royal family.

The protesters' demand sent a shockwave through the royal elites. Addressing issues related to the monarchy in public is nothing truly new. A decade ago, some anti-monarchists fiercely criticized the monarchy on the protest stage. This included Daranee Charnchoengsilpakul, also known as Da Torpedo, who was sentenced to 15-year imprisonment for defaming the royal family under the *lèse-majesté* law. Groups of academics and politicians, in the past, have recommended the reform of the law, but successive governments trashed these efforts. Today, it has been used to undermine enemies of the state (monarchy and military) and this has severely affected the human rights situation in Thailand.

B. What types of measures have you observed or do you have knowledge of being taken in response to such situations, that impact on assemblies and other relevant human rights?

The government depended on two approaches: violence and legal instrument. At the height of protests, although they were peaceful, protesters were dealt with violently. The government used high-speed water cannon (water was mixed with toxic agents), rubber bullet and at some points real bullets, against protesters. Often, after the crackdowns, the police arrested protesters and in some cases denied them bail.

The other measure was, as mentioned earlier, the use of legal instrument, by accusing them of 1) violating state of emergency 2) violating royal decree on pandemic control and 3) criticising the monarchy (since the core demand has been to request immediate reforms of the monarchy). Right up to the first quarter of 2021, there was a report that 56 protesters being arrested for *lèse-majesté*. The massive number of people prosecuted by Article 112, the harsh penalty rate and mandatory minimum sentencing coupled with the trial procedure whereby most of the accused

have been denied bail and the Court has ordered a secret trial, have engendered a burgeoning climate of fear, thus affecting human rights. It has engulfed the whole society with the notion that the monarchy is untouchable and unspeakable and people are supposed to practice self-censorship. They have to be utmost cautious when discussing any issues about the monarchy including during personal communication and public communication. Such a condition has gravely compromised Thai people's knowledge and understanding about the monarchy as well as the freedom of speech.

C. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly amongst other relevant human rights, being violated in such a context, or do you imagine it might be violated?

Article 112 of Thailand's Criminal Code is fundamentally incompatible with the right to assembly and freedom of expression to which Thailand is ostensibly committed under the ICCPR. The Thai government has continued to ban public gatherings. Thai authorities at first tried to stymie the protest movement and suppress discussion of the monarchy by applying other laws and using force to disperse protesters. However, as these efforts failed, the government resorted to Article 112. In November 2020, Prime Minister Prayuth Chan-o-cha announced that the government would consider bringing *lèse-majesté* charges against protesters, ending a three-year *de facto* moratorium on the use of Article 112 (The use of Article 112 coming to a halt in late 2017 at the wish of King Vajiralongkorn as part of him trying to preserve a good image of the monarchy). According to Thai Lawyers for Human Rights, Thai police have opened investigations into at least 59 individuals under Article 112 since 24 November 2020. Most were prominent activists associated with the protest movement. Several face investigations in multiple cases and could spend decades behind bars if prosecuted and convicted.

D. What good or promising practices have you observed or do you imagine might be possible that would help to ensure the right to freedom of peaceful assembly amongst other relevant human rights, is better respected, protected and/or fulfilled in such a crisis context?

The controversial issue of the *lèse-majesté* law has not only been heatedly debated within Thailand, but also in the wider world. There have been two kinds of reaction from the international community to the discursive use of the *lèse-majesté* law: a critical view from Western governments, international organisations, academic society and foreign media, and a rather timid position endorsed by Thailand's neighbours in the region. But even with a tough stance of the West and various international organisations, the problems with Article 112 have not been alleviated. In fact, since the nationwide protests in Thailand that broke out in mid-2020, the multiplying *lèse-majesté* cases have gravely generated a devastating impact on the Thai image, particularly regarding the appalling human rights situation in the country. Many Thais have been arrested and thousands of websites deemed insulting to the monarchy closed down (including the case of the Royalists Marketplace Facebook Private Group, under my care, which has been blocked its access in Thailand. Today, it has more than 2.3 million members). Today, Thailand has the harshest punishment for *lèse-majesté* violations in the world.

International organisations, like the United Nations, have a responsibility to guarantee the right to public assembly and freedom of speech. Thais have become desperate, as they have been caught in the dire situation: denying the authoritarian regime of Thailand yet lacking a space to voice their frustration. Western governments and international organisations, while expressing their concerns over

the Thai political situation, tend to separate the two inseparable issues: right to assembly and right to criticise the monarchy. As it appears, while these foreign actors have been campaigning for the right to freely assemble in Thailand, they do not pay enough attention to the problem with Article 112. To me, the Thai people will not be able to express freely, if they cannot express their view vis-à-vis the monarchy.

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