

Thailand: Immediately end the practice of arbitrarily detaining persons in unofficial places of detention

4 May 2017

Bangkok, Thailand --- Thailand should immediately end the practice of arbitrarily detaining persons in unofficial places of detention said the International Commission of Jurists today. The statement came after it was revealed that human rights lawyer, Prawet Prapanukul, who had been arbitrarily detained for five days at a detention facility inside a military base in Bangkok, finally appeared and was charged at the Bangkok Criminal Court on 3 May 2017.

During the morning of 29 April 2017, military officers invoked Head of National Council for Peace and Order (NCPO) Order 3/2015 to arrest Prawet Prapanukul and search his residence in Bangkok, seizing a number of items located at the property including computers, phones and hard-drives.

The whereabouts of Prawet Prapanukul were unknown until the afternoon of 3 May 2017, when Prawet Prapanukul contacted several lawyers including Thai Lawyers for Human Rights (TLHR) and said he had been held at the Nakhon Chaisri temporary remand facility inside the 11th Army Circle military base in Bangkok.

"Prawet Prapanukul's five-day incommunicado detention without being brought before the courts or access to legal counsel amounts to an arbitrary detention in violation of his rights under international law and consequently he should be provided with appropriate reparation," said Kingsley Abbott, the ICJ's Senior International Legal Adviser for Southeast Asia. "To ensure the protection of all persons while in detention, Thailand has a duty to detain people in officially recognized places of detention, to have their names and places of detention made available to interested persons and to bring them before a court without delay within 48-hours."

According to TLHR, on 3 May 2017, Prawet Prapanukul was charged with ten counts of the highly restrictive crime of *lese majeste* (article 112 of the Criminal Code), three counts of a sedition-like offence (article 116 of the Criminal Code), and violation of article 14(3) of the Computer Crime Act. [The ICJ has previously raised concerns about abusive recourse to these laws](#). Pursuant to article 91(3) of the Thai Criminal Code, it is possible that, if convicted of these charges, Prawet Prapanukul could receive a maximum sentence of 50-years imprisonment.

"Freedom of expression, as protected under international law, must never be criminalized. In any event, imprisonment is never a proportionate penalty for the exercise of free expression, let alone the unthinkable possibility of 50-years, which would set a new recorded record for a sentence for *lese majeste*."

On 25 April 2017, after reviewing Thailand's compliance with its obligations under the International Covenant on Civil and Political Rights (ICCPR), to which Thailand is a State Party, the Human Rights Committee, the international expert body charged with supervising the implementation of the ICCPR, [issued its Concluding Observations](#) in which it noted that in Thailand "*individuals were reportedly often detained without charge and held incommunicado at undisclosed places of detention for periods of up*

to seven days, with no judicial oversight or safeguards against ill-treatment and without access to a lawyer.” The Human Rights Committee observed that Thailand should immediately release all victims of arbitrary detention and provide them with full reparation.

“The fact that Thailand arbitrarily detained Prawet Prapanukul at a military facility just five days after the Human Rights Committee issued its Concluding Observations criticizing Thailand’s practice of detaining people incommunicado in undisclosed places of detention demonstrates a worrying contempt for its international human rights obligations as pointed out by the Committee.”

Background

Prawet Prapanukul is a prominent human rights lawyer, involved in a number of high profile politically charged cases. His clients have included members of the United Front for Democracy against Dictatorship (UDD), also known as “Red Shirts,” and persons accused of *lese majeste*.

The ICCPR guarantees, among other rights, the right to peaceful assembly, freedom of expression, freedom of association, and prohibits arbitrary arrest or detention (article 9).

The Human Rights Committee has stated that *“To guarantee the effective protection of detained persons, provisions should be made for detainees to be held in places officially recognized as places of detention and for their names and places of detention, as well as for the names of persons responsible for their detention, to be kept in registers readily available and accessible to those concerned, including relatives and friends.”*

The Human Rights Committee has also repeatedly noted that persons detained for longer than 48 hours before being brought before a judge have been arbitrarily detained - any delay longer than 48 hours must remain absolutely exceptional and be justified under the circumstances.

The UN Basic Principles on the Role of Lawyers provide that governments are to ensure that lawyers are able to perform their professional functions without intimidation, hindrance, harassment or improper interference.

On 25 November 2015, the ICJ and Human Rights Watch sent [an open letter to The Permanent Mission of Thailand to the United Nations Office in Geneva](#), raising concerns about the arbitrary detention of civilians in military facilities including the Nakhon Chaisri temporary remand facility in Bangkok.

[The ICJ has repeatedly raised concerns](#) about freedom of expression, arbitrary detention, and the orders and announcements issued by the NCPO and Head of the NCPO since the military coup of 22 May 2014 which do not comply with Thailand’s international legal obligations, including Head of NCPO Order 3/2015 which allows for the detention of persons for up to seven days without charge in unofficial places of detention where they are not to be treated as an “accused person.”

Contact

Kingsley Abbott, ICJ Senior International Legal Adviser for Southeast Asia,
t: +66 94 470 1345 ; e: kingsley.abbott@icj.org