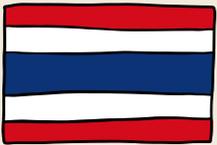




Joint Press Release



International concern mounts over key human rights issues at UN-backed review



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Joint Press Release

Thailand: International concern mounts over key human rights issues at UN-backed review

(Bangkok, Paris, 17 November 2021) The Thai government should address international concerns by accepting and implementing key human rights recommendations that Thailand received during its third Universal Periodic Review (UPR), FIDH and its member organizations Internet Law Reform Dialogue (iLaw), Manushya Foundation, Thai Lawyers for Human Rights (TLHR), and Union for Civil Liberty (UCL) said today.

“Since the first UPR of Thailand 10 years ago, the international community has grown increasingly concerned about the failure by successive governments to address a number of key human rights issues. Instead of continuing to ignore important recommendations, the government should take steps toward their implementation within the framework provided by Thailand’s existing international human rights obligations,” said FIDH Secretary-General Adilur Rahman Khan.

During its third UPR, which was held on 10 November 2021, Thailand received a total of 278 recommendations. The government accepted 194 of them and said it would provide a response regarding the remaining 84 by the 49th session of the United Nations (UN) Human Rights Council (March 2022).

FIDH, iLaw, Manushya Foundation, TLHR, and UCL call on the government to accept, at a minimum, all remaining recommendations it received that are consistent with Thailand’s obligations under international human rights treaties to which it is a state party.

Below is an analysis of the government’s preliminary response to the recommendations received on 10 November with regard to selected human rights issues.

Freedom of expression and peaceful assembly

In addition to recommendations regarding *lèse-majesté* [See below, *Lèse-majesté*], Thailand received 18 recommendations that called for the respect of freedom of expression. The government accepted only seven of them, including one that called for the enactment of legal protections against strategic lawsuits against public participation (SLAPP).

Thailand also received 14 recommendations that called for the respect of freedom of peaceful assembly, and the government accepted only three of them.

Despite pronouncements by UN human rights monitoring mechanisms that have consistently criticized the existing restrictions to the rights to freedom of opinion and expression and freedom of peaceful assembly in Thailand, the government claimed that Thailand upheld its obligations under the International Covenant on Civil and Political Rights (ICCPR) and it continued to respect freedom of opinion and expression and freedom of peaceful assembly.

Amid the ongoing repression of pro-democracy protest leaders and participants, including youths, the government claimed it “tried to accommodate all the movements advocating for reforms and amendments of the constitution or any other laws by providing space and candid exchanges of views” and that it saw “the importance of the inclusion of young people’s voices in as many processes related to them, or of interest for them, as possible.”



Despite various actions that attempted to limit the freedom of certain media outlets, particularly online, the government claimed that “the media is free to exercise its right to freedom of opinion on various platforms.”

Lèse-majesté

Thailand received 12 recommendations concerning Article 112 of the Criminal Code (lèse-majesté), with nearly all of them calling for its amendment and one urging the end of arrests and prosecutions of children under Article 112. Australia also expressed concern over the use of Article 112.

The government will provide a response to these 12 recommendations by March 2022. In the meantime, various statements made by government representatives during the UPR on 10 November with regard to lèse-majesté raised questions about their sincerity.

On the same day that Thailand’s Constitutional Court ruled that calls made by pro-democracy activists for the reform of the Thai monarchy amounted to attempts to overthrow the democratic system with the King as the head of state, the government claimed that “current discussions reflect the functioning of relevant parliamentary and constitutional mechanisms that allow different voices to be heard in the consideration of this very important law.”

In addition, despite the fact that since November 2020 at least 156 people have been charged under Article 112 - in some cases over symbolic activities such as wearing a traditional dress or a crop top - the government had the audacity to declare that “law enforcement authorities must perform due diligence” in the application of Article 112.

Civil society and human rights defenders

Amid ongoing attacks, arbitrary detentions, and harassment of human rights defenders, the government claimed that “human rights defenders have been highlighted as a specific group that needs appropriate protection” and that it “worked to create better understanding about the important role of human rights defenders.”

The government accepted five of the eight recommendations that called for measures to guarantee civil society space, the protection of human rights defenders, and investigations into acts of harassment and attacks against them.

However, it did not accept nine recommendations that called for the revision of draft legislation on the operations of non-profit organizations. The government claimed that the proposed legislation was aimed at creating “greater transparency and a more comprehensive oversight and promotional framework for NGOs.”

Death penalty

Despite its repeated claim that it was “committed to move towards the abolishment of the death penalty,” the government once again delayed the acceptance of recommendations that called for the adoption of various measures aimed at making progress towards the abolition of capital punishment, such as the establishment of a moratorium on executions and the ratification of the Second Optional Protocol to the ICCPR (OP2-ICCPR). The government accepted only seven of the 23 recommendations received concerning the death penalty.



The government reiterated its tired argument that “the majority of [Thai] people is in favor of the death penalty.” It also claimed it made “efforts during the past years in educating the public about the global trend and the importance of the right to life,” without providing any details of such efforts.

Prison conditions

The government accepted both recommendations that called for an improvement of conditions of detention and the humane treatment of prisoners. However, the treatment of prisoners in Thailand remains well below minimum international standards, with poor conditions, exacerbated by the spread of COVID-19 in correctional facilities across the country.

Torture and enforced disappearances

The government accepted all 14 recommendations concerning torture and ill-treatment, including those that called for: investigations and prosecutions of all such allegations; the enactment of legislation that criminalizes torture; and the ratification of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT). Eight of those accepted recommendations also related to the enactment of legislation criminalizing torture and enforced disappearance and the establishment of a mechanism for the prevention of such crimes.

The government also accepted six of the seven recommendations that called for the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). However, the government cautioned that it would ratify the ICPPED after the enactment of the Prevention and Suppression of Torture and Enforced Disappearance Bill - which is pending parliamentary approval - without providing any timeframe.

The government did not accept one recommendation that called for investigations into the disappearance of Thai political activists, including Wanchalearm Satsaksit, since 2014.

Refugees

The government did not accept six recommendations concerning refugees, including: two that called for the ratification of the Convention relating to the Status of Refugees; one that called for the implementation of measures to ensure their protection; and one that urged Thai authorities to “stop the return of refugees from Myanmar.”

The government claimed it accorded protection to “people fleeing conflicts and seeking temporary refuge in Thailand,” a statement that has been contradicted by the numerous cases of deportation of refugees by Thai authorities. The latest case involved two refugees who were deported to Cambodia on 9 November, the day before Thailand’s UPR.¹

¹ UNHCR, UNHCR condemns deportation of Cambodian refugees by Thai authorities, 12 November 2021



Ratification of human rights treaties

In addition to recommendations concerning the ratification of other key human rights treaties [See above, Death penalty; Torture and enforced disappearances; and Refugees], Thailand received (but did not accept) two recommendations that called for the ratification of the Rome Statute of the International Criminal Court.

The government also did not accept one recommendation concerning the ratification of the Optional Protocol to the ICCPR (OP-ICCPR) and provided conflicting responses regarding the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR). While it accepted the sole recommendation that called for the ratification of OP-ICESCR, during the UPR session the government affirmed that it had agreed to “maintain the position of non-state party” to this protocol.

Visits by UN special procedures

The government accepted the sole recommendation that called for the endorsement of requests for country visits by UN special procedures. The government also formally pledged to reaffirm its standing invitation to UN special procedures, which was first issued in November 2011.

Despite numerous and repeated requests by various UN thematic special procedures over the past 10 years, Thailand has accepted visits from only two of them - the UN Special Rapporteur on the human rights to safe drinking water and sanitation (January-February 2013) and the UN Working Group on Business and Human Rights (March-April 2018).

The government attributed its inability “to welcome full country visits” to “the restrictions on movements and gatherings in the past two years due to COVID-19.”

Endorsing organisations:

1. FIDH – International Federation for Human Rights and its member organizations
2. Internet Law Reform Dialogue (iLaw)
3. Manushya Foundation
4. Thai Lawyers for Human Rights (TLHR)
5. Union for Civil Liberty (UCL)