

AMNESTY INTERNATIONAL

AMNESTY INTERNATIONAL'S RECOMMENDATIONS TO THE THAI GOVERNMENT

After monitoring the human rights situation in Thailand throughout 2022, Amnesty International found positive steps taken by the Thai government, such as enacting the Act on the Suppression and Prevention of Torture and Enforced Disappearance. However, various issues still warrant more effort by the Thai government to improve the human rights situation in compliance with international human rights law and standards. To that end, we make the following recommendations:

FREEDOM OF PEACEFUL ASSEMBLY

- Drop all charges, issue non-indictment orders, and refrain from further charges against any individuals facing charges solely for their peaceful involvement in protests, including those brought under the now-defunct ban on public gatherings issued under the Emergency Decree on Public Administration in Emergency Situations;
- Investigate law enforcement officials suspected of unlawful use of force to disperse or control public assemblies in violation of international law and standards, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Where appropriate prosecutions should be brought, in proceedings that accord with international fair trial standards.
- Provide adequate and rigorous training to law enforcement personnel participating in the management of public assemblies based on human rights considerations, including the protection of protesters under 18 years old. All use of force and the use of weapons must be compliant with international requirements of legality, legitimate aim, necessity, and proportionality.
- Regulate the use of kinetic impact projectiles (KIPs) – i.e., rubber bullets – by prohibiting their usage for generalized crowd control and ensuring that they are only used as a last resort, when less extreme means are insufficient to control a violent individual posing an imminent threat of severe harm to persons. They should never be aimed at the upper part of the body or groin area.
- Provide effective remedies to peaceful protesters who were victims of unlawful use of force or harassment, intimidation, and surveillance by law enforcement authorities.
- Provide a safe and enabling environment for human rights defenders, journalists, and peaceful protesters, including persons under 18 years old, to exercise their rights to freedom of peaceful assembly without being subject to intimidation, harassment, and prosecution.

FREEDOM OF EXPRESSION

- Amend or repeal problematic provisions of laws used to target those exercising their right to freedom of expression including the lèse majesté law (Article 112 of the Criminal Code), the sedition law (Article 116 of the Criminal Code), criminal defamation (326 and 328 of the Criminal Code), the Computer Crimes Act and laws on contempt of court.
- Drop all criminal proceedings against individuals charged under security laws solely for exercising their right to freedom of expression and immediately and unconditionally release all prisoners of conscience from detention.

- Refrain from imposing criminal penalties and blanket bans on the dissemination of information, including those based on vague and ambiguous concepts such as “false news” or “spreading misinformation,” which could be used to restrict the right to freedom of expression.
- Launch an independent, prompt, thorough, and effective investigation into the use of Pegasus spyware and other surveillance technologies and adopt a moratorium on the sale, transfer, and use of spyware until human rights regulatory safeguards that govern its use are in place, in order to protect the right to privacy and freedom of expression, association, and peaceful assembly.

FREEDOM OF ASSOCIATION

- Ensure that the rights to organize and form associations shall not be subject to control and restriction as prescribed in Article 22 of the International Covenant on Civil and Political Rights (ICCPR). To uphold its obligations, the Thai government must withdraw the Draft Act on the Operation of Not-for-Profit Organizations and the Draft Amendment of Anti-Money Laundering Act.
- Provide legal and administrative safeguards to protect the right to freedom of association while combating money laundering and the financing of terrorism. Such safeguards should ensure that measures for anti-money laundering and countering of the financing of terrorism is strictly risk-based, focused, and proportionate, and that non-profit organizations can freely operate without any disruptions on their legitimate activities under the Financial Action Task Force’s standards.

TORTURE AND OTHER ILL-TREATMENT AND ENFORCED DISAPPEARANCE

- Review the official decision to postpone the enforcement of Articles 22 to 25 of the Act on the Suppression and Prevention of Torture and Enforced Disappearance – the key provisions providing legal and procedural safeguards to prevent torture, other ill-treatment, and enforced disappearance throughout the arrest and detention process.
- Amend the Act on the Suppression and Prevention of Torture and Enforced Disappearance to ensure its full compliance with international human rights law, including by incorporating provisions to (i.) prohibit the admission of information obtained by torture, ill-treatment, and enforced disappearance as evidence in legal proceedings and (ii.) prohibit amnesty for these crimes, as well as (iii.) revise the structure, composition, and mandate of the Committee on the Suppression and Prevention of Torture and Enforced Disappearance to ensure its effectiveness, independence, and impartiality.
- Conduct an immediate, thorough, independent, and effective investigation into any alleged act of torture and other ill-treatment and enforced disappearance. Where appropriate prosecutions should be brought, in legal proceedings that accord with international fair trial standards. In cases of enforced disappearance, identify and disclose information of the whereabouts of victims to deliver truth for their families and loved ones.
- Immediately ratify the Optional Protocol of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention for the Protection of All Persons from Enforced Disappearance.

RIGHTS OF REFUGEES AND MIGRANTS

- Comply with international obligations and ensure asylum seekers have access to a full, fair, and efficient asylum procedure and to have unfettered access to the UN High Commissioner for Refugees (UNHCR).

- Ensure that asylum seekers, refugees and migrants shall not be subject to deportation, repatriation or forced return to their countries of origin where they may face persecution, torture, violence or other serious human rights violations or abuses, taking into consideration the principle of non-refoulement under the Convention Against Torture and Other Cruel, Inhumane, and Degrading Treatment or Punishment and the domestic legal safeguards under the Act on the Suppression and Prevention of Torture and Enforced Disappearance.
- Accede to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.
- Release refugees and asylum-seekers detained for their irregular migration status from detention, seek alternatives to detention for the purposes of immigration enforcement and only use detention as an exceptional measure based on an individual assessment of humanitarian needs and risks if they remain at liberty, subject to regular review and for the least amount of time necessary.
- Revise the Draft Notification of the Protected Person Screening Committee to ensure that the National Screening Mechanism provides protection for all individuals seeking asylum in Thailand, amend the definition of a “refugee” under this mechanism to align with that of the UN Refugee Convention, and provide judicial safeguards for applicants to access an appeal process or judicial review of decisions made under this mechanism.

INDIGENOUS PEOPLES’ RIGHTS

- Bring to justice without any undue delay the perpetrators involved in the murder of Indigenous human rights defender Porlajee Rakchongcharoen and other human rights violations in Indigenous and ethnic minority communities. The criminal proceedings shall follow international fair trial standards.
- Ensure a safe and enabling environment for human rights defenders working on Indigenous peoples’ rights, including by dropping the charge of giving false information against Waraporn Utairangsee, a human rights lawyer representing Indigenous Karen villagers facing forced evictions from their ancestral lands.
- Ensure all development and conservation initiatives respect the rights of Indigenous peoples living in affected communities in line with international human rights law and standards such as the UN Declaration on the Rights of Indigenous Peoples.

DISCRIMINATION

- End the mass and discriminatory collection and use of DNA samples and other forms of racial profiling, such as the discriminatory use of facial recognition technology and of SIM card registration for surveillance purposes, especially in the country’s Malay Muslim-majority southern border area and other areas populated by Indigenous peoples.
- Ensure robust monitoring of law enforcement officers and military personnel to prevent racial profiling, including in the southern border provinces, and ensure that victims of racial profiling have access to effective remedy.
- Adopt a regulatory framework preventing the entry of data into law enforcement databases that may contain or result in racial bias. The framework must comply with international norms and standards and encompass legal guarantees and independent oversight mechanisms.