

AMNESTY INTERNATIONAL

AMNESTY INTERNATIONAL'S RECOMMENDATIONS TO THE THAI GOVERNMENT

Throughout 2023, Amnesty International had closely monitored human rights situations in Thailand and found various positive steps taken by the Thai government, including the full enactment of the Act on the Suppression and Prevention of Torture and Enforced Disappearance. Nonetheless, Amnesty International continues to observe concerning challenges on many different human rights issues. To ensure the Thai government's compliance with international human rights law (IHRL) and standards, Amnesty International urges the government to adopt the following recommendations:

Rights to Freedom of Expression, Association, and Peaceful Assembly

- Drop all criminal proceedings against individuals charged under repressive laws, including those brought under the now-defunct ban on public gatherings issued under the Emergency Decree on Public Administration in Emergency Situations, for exercising their right to freedom of expression and peaceful assembly, issues non-indictment orders, and immediately and unconditionally release all those who are in detention;
- Refrain from pressing further charges against any individuals facing charges solely for their peaceful involvement in protests and from imposing criminal charges 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;
- Investigate and prosecute law enforcement officials suspected of unlawful use of force to disperse or control public assemblies taking into account the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials in proceedings that accord with international fair trial standards. Provide effective remedies to peaceful protesters who were victims of unlawful use of force or harassment, intimidation, and surveillance by law enforcement authorities;
- Amend or repeal problematic provisions of repressive 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 (Article 326 and 328 of the Criminal Code), the Computer Crimes Act and laws on contempt of court to ensure that the laws comply to international human rights obligations;
- Drop the Draft Act on the Operations of Not-for-Profit Organizations B.E.... and the Draft Amendment on Prevention and Suppression on Anti-Money Laundering Act B.E.... for the deliberation by either the cabinet or the House of Representatives and withdraw all relevant cabinet resolutions, particularly the cabinet resolutions on 4 November 2021 and 4 January 2022.

Children's Rights

- Ensure a consistent approach in protecting, respecting, and fulfilling children's interlinked rights contributing to their abilities to participate in peaceful assemblies in line with IHRL;
- Drop all criminal proceedings against child protesters charged for their participation in peaceful assemblies or for the exercise of their right to freedom of expression;
- Ensure that children are actively protected from any harm in the context of public assemblies, through nuanced and innovative approaches rather than unnecessary restriction of their rights;
- Ensure that law enforcement and other relevant officials are trained on children's rights in peaceful assemblies;

- Provide effective remedies to the child protesters who were victims of unlawful use of force or harassment, intimidation, and surveillance by law enforcement authorities.

Human Rights Defenders

- Carry out a prompt, independent, impartial, and transparent investigation into all instances of digital and physical harassment of human rights defenders and activists;
- Guarantee the right to an effective remedy, which includes access to justice, for human rights defenders, especially women, LGBTI, ethnic minority and indigenous rights defenders who seek accountability and compensations from the government;
- Establish and enforce codes of conduct on public communications for officials to ensure state actors do not engage in online harassment, including the use of gendered disinformation, against women and LGBTI HRDs;
- Enact and implement comprehensive legislative and policy measures to recognise, prevent, document, investigate, and address all forms of harassment and provide redress and support for survivors.

Right to Privacy

- Carry out an independent, prompt, impartial, and effective investigation into the use of unlawful targeted digital surveillance, such as Pegasus spyware and other surveillance technologies against human rights defenders, especially women and LGBTI people who bear disproportionate impacts from the violation of their right to privacy;
- Enforce a ban on highly invasive spyware, whose functionality cannot be limited to only those functions that are necessary and proportionate to a specific use and target, or whose use cannot be independently audited;
- Implement a human rights regulatory framework that governs surveillance and is in line with IHRL and standards. Until such a framework is implemented, a moratorium on the purchase, sale, transfer and use of all spyware should be enforced;
- Proactively disclose information of all contracts between all government and state entities, including security agencies, and private surveillance companies;
- Provide immediate and effective remedy in line with IHRL to those affected individuals from unlawful targeted digital surveillance;
- Undertake a review of the Computer Crime Act, the Cybersecurity Act, the Personal Data Protection Act, and other related Acts that enable unlawful surveillance to bring them into conformity with IHRL and ensure robust safeguards for the right to privacy.

Torture and Other Ill-Treatment and Enforced Disappearances

- 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, authorities need to ensure that the burden of proof does not unduly restrict the right to justice for victims and their families while identified and disclosed information regarding the whereabouts of victims must be delivered truthfully to their families and loved ones in a timely manner;
- Amend the Act on the Suppression and Prevention of Torture and Enforced Disappearance to ensure its full compliance with IHRL, 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;

- 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 without any reservations.

Refugees' and Migrants' Rights

- Accede to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol;
- Revise the Notification of the Protected Person Screening Committee or the National Screening Mechanism to ensure that it provides protection for all individuals seeking asylum in Thailand regardless of their national origins. Ensure that the definition of 'national security' will not be applied to discriminatory exclude certain groups of refugee and asylum seekers from the protection of the mechanism. Provide judicial safeguards for applicants to access an appeal process or judicial review of decisions made under the mechanism;
- 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. Immediately launch the investigation into the allegation of death for Uyghur detainees and publicly disclose the number of those in the detention;
- 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;
- Immediately undertake a prompt, thorough, effective, impartial and independent investigation into cases of transnational repression, including the killing, disappearance and abduction of activists seeking exile in Thailand, in line with IHRL and standards;
- Urgently terminate official agreements with other governments and any other measures enabling transnational repression of legitimate human rights activism.

LGBTI People's Rights

- Urgently pass the Draft Act for Amendment to the Civil and Commercial Code, also known as the Marriage Equality Bill, in the parliament for enactment and ensure that the law guarantees the full right to family and marriage without discrimination in alignment with IHRL and standards.

Impunity

- Guarantee the right to an effective remedy, especially access to justice, to those 85 individuals who were shot or died being arrested from the 'Tak Bai' protest dispersal incident in 2004 and their family members and loved ones;
- Provide full protection for survivors of the incident and their loved ones who wish to pursue justice in this case;
- Immediately cease the enforcement of Martial Law, Internal Security Act and the Emergency Decree on Public Administration in Emergency Situations as well as amend these laws, together with its announcements imposed during the emergency situations to ensure their compliance with the obligations pursuant to the treaties on the deprivation of liberty taking into account the General Comment No. 35 of the UN Human Rights Committee regarding the right to liberty and security of person.