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Geneva

Thailand: ICJ recommends Thai Government withdraw internal security bill

In a letter submitted to the Council of State today (the Cabinet's legal advisory body), the International Commission of Jurists (ICJ) set out its concerns about Thailand's proposed Internal Security Act and recommended the Interim Government withdraw the Bill, because it would undermine rule of law principles.

The ICJ's comments were sent in response to H.E. Prime Minister Gen. Surayud Chulanont's (Ret.) public invitation for comments on the Bill and are available in full on the ICJ website (www.icj.org).

The Bill would give ill-defined and overly broad law enforcement and administrative powers to the Royal Army Commander as the Director of a revived Internal Security Operations Command (ISOC), with little accountability to parliament and the courts.

The ICJ said that under internationally recognised legal principles and best practice around the world military forces should not be given such exceptional powers on a permanent or standing basis, as envisaged by the Bill. These types of powers should only normally be given to the military forces in exceptional circumstances and for a temporary period, after a declaration of a state of emergency.

The Bill would give the Director of ISOC wide powers to command civilian authorities and restrict fundamental freedoms, such as freedom of expression, assembly and movement. Like the Emergency Decree, introduced by former Prime Minister Thaksin Shinawatra in 2005, and implemented in the southern border provinces, the Bill would allow for preventive arrest and detention without the normal safeguards of the Criminal Procedure Code.

"The draft Internal Security Act has all the problems of the Emergency Decree but is of more concern since special powers are given to the military and would be held by officials all over Thailand at anytime, and not only in sensitive areas at times of genuine emergency. It would, in effect, be a form of martial law and would undermine the rule of law." Said the ICJ.

In 2005 the ICJ criticised the Emergency Decree for its vague definitions and sweeping powers, reduced accountability to parliament and courts, including immunity from prosecution for officials. The ICJ has since been informed of credible allegations of abuses related to the implementation of the Emergency Decree and martial law.

The ICJ is an international non-governmental organisation comprising sixty of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

It has been suggested that the draft Internal Security Act reflects the US Homeland Security Act, and follows the example of security laws in Malaysia and Singapore. According to the ICJ, the purpose of the US Homeland Security Act was to encourage better cooperation between security agencies. However, the US law, unlike the draft Internal Security Act, does not include the military in its remit, nor does it give special powers of arrest and detention.

In Malaysia, the Internal Security Act (ISA), enacted in the 1960's as a temporary law to combat Communist insurgents, provides for preventive detention on suspicion of acting "in any manner prejudicial to the security of Malaysia". In practice it has allowed political activists to be detained for several years and has been criticised among others by the US State Department. Similar criticisms can be made of the Singaporean Internal Security Act, which originates from the Malaysian ISA that was extended to Singapore in 1963. According to the ICJ, these laws are not good models to follow.

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For further information, please contact the ICJ at +41 22 979 3800.