

Thailand: Lift ban on political gatherings and fully reinstate all fundamental freedoms in Thailand

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Bangkok, Thailand --- The ICJ expressed disappointment regarding Friday's ruling by Thailand's Administrative Court dismissing a case filed against the Royal Thai Police (RTP) for unjustified restriction of the freedom of peaceful assembly and freedom of expression, and again called on Thailand to lift its ban on political gatherings and fully reinstate fundamental freedoms in Thailand.

On 28 September 2018, the Administrative Court dismissed a case filed by the organizers of a "We Walk Friendship March" ('We Walk march') against the RTP and six policemen for restricting the march on the basis that it was in violation of Head of NCPO Order No. 3/2558 (2015) ('HNCPO Order 3').

The Administrative Court referred to the Thai Constitution, the Public Assembly Act B.E. 2558 (2015), the International Covenant on Civil and Political Rights (ICCPR) to which Thailand is a State party, and HNCPO Order 3, in deciding that the march was a public assembly. Its decision clarified that the case had to be dismissed as the RTP's actions had complied with the Public Assembly Act.

"It is astonishing that more than four years after the coup, HNCPO Order 3 and other repressive laws, orders and announcements which restrict fundamental freedoms remain in place," said Kingsley Abbott, Senior Legal Adviser at the ICJ.

"The Administrative Court missed a critical opportunity to deliver an opinion that the ban on political gatherings should be lifted and that all laws, orders and announcements that are inconsistent with Thailand's international human rights obligations should be amended or revoked immediately to reinstate all fundamental freedoms in Thailand," added Abbott.

The march, which went ahead peacefully, aimed to bring attention to the need in Thailand for universal healthcare services, policies guaranteeing food security, laws that would not violate human rights, and public participation in the development of the Constitution.

Background on HNCPO Order 3

HNCPO Order 3 prohibits the gathering of five or more persons for political purposes, carrying a penalty of imprisonment not exceeding six months and/or a fine not exceeding 10,000 Baht.

HNCPO Order 3 is only one of several Head of NCPO and NCPO orders which have remained in force since the coup d'état of May 2014, and which have been misused along with criminal defamation laws, sedition-like offences, the Computer Crimes Act and the Public Assembly Act, to severely restrict rights guaranteed under the ICCPR.

In September 2018, the Secretary-General of the Election Commission reportedly stated that national elections would be held on 24 February 2019 at the earliest and by 9 May 2019 at the latest.

On 14 September 2018, General Prayuth Chan-o-cha instituted HNCPO Order No. 13/2561 (2018) ('HNCPO Order 13') to partially lift the ban on political parties to allow political parties to perform certain political activities.

Despite the partial lifting of the ban on political parties, restrictions on rights to freedom of association and peaceful assembly remain in place. HNCPO Order 3 remains in force despite the coming into force of HNCPO Order 13.

HNCPO Order 13 also places strict limitations on the activities on political parties, and its vague and overbroad clauses allow for potential misuse by authorities to clamp down on activities which appear to be “political campaigning” that is prohibited by the order.

On 27 September 2018, Deputy Prime Minister Wissanu Krea-ngam reportedly stated that the NCPO is likely to hold a meeting in December 2018 to determine when the ban on political activities will be fully lifted.

According to statistics collated by Thai Lawyers for Human Rights, as of 22 May 2018, 378 persons have been prosecuted for violation of the ban on political gatherings of five or more persons since the 2014 coup.

Background on Administrative Court Legal Proceedings

On 20 January 2018, around 100 members from a network of civil society groups and individuals gathered at Thammasat University in Pathum Thani province to participate in the We Walk march.

Thai police reportedly restricted the march for alleged violation of HNCPO Order 3, by blocking the university’s exits to prevent marchers from leaving, setting up a security checkpoint along the route of the march to screen marchers and collect identification information on the marchers and intercept some marchers for interrogation.

On 22 January 2018, the march’s organizers filed a suit against the RTP and six policemen, calling for the court to order the police to refrain from restricting their right to peaceful assembly, to facilitate and protect them in the exercise of their fundamental freedoms, and to pay damages for violating their fundamental freedoms.

On 26 January 2018, the Administrative Court issued a *provisional order* in advance of the full judgment, stating that the march was a peaceful assembly according to the Public Assembly Act and ordering the police to facilitate and provide security for the march according to their duties under the Act. The RTP appealed the order.

On 15 February 2018, the Supreme Administrative Court upheld the *provisional order*.

On 28 September 2018, the Administrative Court delivered a full judgment on the suit filed by the march’s organizers against the RTP and six policemen.

Thailand ratified the ICCPR, which guarantees the rights to free expression, assembly and association, in 1996.

Contact

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Other reading

For further detail on the misuse of HNCPO Order 3, other Head of NCPO and NCPO orders and laws in restricting fundamental freedoms in Thailand, see:

[ICJ, TLHR, Joint Submission in advance of the examination of Thailand’s Second Periodic Report under Article 40 of the International Covenant On Civil And Political Rights, 6 February 2017](#)

[ICJ, TLHR and CrCF, Joint Follow-up Submission to the UN Human Rights Committee,
27 March 2018](#)