



Thailand: ICJ and TLHR welcome the lifting of the ban on political activities but much more is needed

Bangkok, Thailand --- The International Commission of Jurists (ICJ) and Thai Lawyers for Human Rights (TLHR) welcome the decision of Prime Minister Gen. Prayut Chan-o-cha, acting as the Head of the National Council for Peace and Order (NCPO), to lift certain restrictions on political activities. The organizations highlight, however, that much more is needed to fully reinstate protection of human rights and fundamental freedoms in Thailand ahead of elections scheduled to be held on 24 February 2019.

This order repealed Article 12 of HNCPO Order No. 3/2558, which prohibited the gathering of five or more persons for a “political purpose”, lifting a ban which had carried a punishment of imprisonment not exceeding six months and/or a fine not exceeding 10,000 Baht.

“The lifting of the ban on political gatherings is welcome – however, the new order only lifts one specific restriction imposed by HNCPO Order 3. Restrictions on fundamental freedoms imposed by other articles of HNCPO Order 3, such as the granting of broad, unchecked powers to military officers to investigate, arrest and detain persons for up to seven days, remain in force,” said Kingsley Abbott, ICJ’s Senior International Legal Adviser.

“We reiterate our call for the Thai government to immediately amend and repeal all laws, HNCPO Orders, NCPO orders and announcements inconsistent with Thailand’s international human rights obligations.”

ICJ and TLHR also express serious concern that even as nine orders and announcements have been repealed by HNCPO Order No. 22/2561, Article 2 of the order clarifies that “prosecutions, actions or operations” already in effect by virtue of those orders will not be affected by the coming into force of the Order. Cases brought before 11 December 2018 under HNCPO Order No. 3/2558 to penalize persons exercising their rights to free expression, assembly and association can therefore legally continue to be prosecuted in courts.

“Cases brought under the now-repealed section of HNCPO Order 3 should be dropped or withdrawn. They should have never been brought before the courts in the first place,” said Abbott.

“In the lead up to elections next year, the Thai government must take further steps to expand space for free expression, assembly and association. This new order is welcome, but it is certainly not enough.”

Background

On 11 December 2018, the Head of the NCPO, invoked Article 265 of the 2017 Constitution and Article 44 of the interim 2014 Constitution to issue HNCPO Order No. 22/2561. The

Order repealed, in whole and in part, nine HNCPO orders, NCPO orders, NCPO announcements.

Articles 44 and 47 of the interim 2014 Constitution allow for unfettered power for Head of NCPO and NCPO orders to be issued that are “legal, constitutional and final”, and not subject to judicial review. These powers were retained through Article 265 of the 2017 Constitution.

Since the *coup d'état* of May 2014, at least 203 HNCPO orders have been issued under Article 44 of the interim 2014 Constitution. In addition, the NCPO has also issued at least 213 general orders and 129 announcements.

Between 1 April 2015 and 11 December 2018, the NCPO filed complaints based on Article 12 of HNCPO Order No. 3/2558 against individuals who merely exercised their fundamental freedoms in at least 43 cases against a total of 341 alleged offenders, approximately two persons a day or one case a month.

Lawyers in Thailand have begun to look into domestic law provisions which will enable them to defend their clients in cases brought before 11 December 2018 under Article 12 of HNCPO Order No. 3/2558 including invoking Section 2 of Thailand’s Criminal Code.

Thailand is a party to the International Covenant on Civil and Political Rights (ICCPR), which protects, among other rights, freedom of expression, freedom of association, freedom of assembly, the rights to life, liberty, security and political participation.

During the Human Rights Committee’s examination of Thailand’s second periodic report under Article 40 of the ICCPR in March 2017, the Committee recommended Thailand to “review all measures adopted under the interim 2014 Constitution, in particular under sections 44, 47 and 48, in light of its obligations under the Covenant, and make sure that all measures to be adopted under the new draft Constitution, including section 279, will be consistent with its obligations under the Covenant”.

HNCPO Order No. 22/2561 repealed nine specific orders and announcements, effective from 11 December 2018.

The Orders/Announcements that were lifted include:

Orders/Announcements	Subject	Dated	Remarks
NCPO Order No. 10/2557	Ban of financial transactions involving people’s assets deemed necessary for the sake of national security and the public’s life and asset security, only for Article 1(2)	24 May 2014	Regarding Mr.Chaturong Chaisaeng
NCPO Order No. 26/2557	Ban of financial transactions involving people’s assets deemed necessary for the sake of national security and the public’s life and asset security	27 May 2014	Regarding Mr.Sombath Bun-ngam-a-nong and Pol.Sgt.Maj. Prasith Chaisrisra

NCPO Announcement No. 39/2557	Conditions of release imposed on certain individuals who report themselves to the NCPO	25 May 2014	Ban from travelling abroad and support of any political activities
NCPO Announcement No. 40/2557	Conditions of release imposed on certain individuals detained by virtue of Article 15 <i>bis</i> of the Martial Law	25 May 2014	Ban from travelling abroad and support of any political activities
NCPO Announcement No. 57/2557	Certain organic laws shall remain in force, only for Article 2	7 June 2014	Ban of existing political parties from convening meetings or any other political activities, etc.
NCPO Order No. 80/2557	Regarding the fulfilment of determined conditions	28 June 2014	Ban of 18 leaders of certain political parties from travelling abroad and preventing involvement in any political activities
HNCPO Order No. 3/2558 (only Article 12)	Maintaining Public Order and National Security, only Article 12	1 April 2015	Ban of political gatherings of five or more persons
HNCPO Order No. 53/2560	procedures in accordance with the organic law governing political parties, only Article 4, 5 and 7	22 December 2017	Ban of political parties from convening its general meeting
HNCPO Order No. 13/2561	procedures in accordance with the organic law governing political parties (added), only Article 6	14 September 2018	Ban of online political campaigning

See also

ICJ, '[Thailand: Lift ban on political gatherings and fully reinstate all fundamental freedoms in Thailand](#)', 1 October 2018

Further reading

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

ICJ and TLHR, '[Joint submission to the UN Human Rights Committee](#)', 13 February 2017

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