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Commission  
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Dear Minister of Social Development and Human Security,

**Re: Recommendations concerning the Draft Act on the Operation of Not-for-Profit Organizations B.E.....**

We write to you regarding the Draft Act on the Operation of Not-for-Profit Organizations B.E. ... ('Draft Act'), approved by the Cabinet on 4 January 2022. The Draft Act has been subject to public consultation since 18 January and the consultative period is scheduled to conclude on 25 March.

We would like to reiterate a number of recommendations we made in two letters to the Council of State last year. The first, dated 31 March 2021, commented on the Draft Act on the Operation of Not-for-Profit Organizations.<sup>1</sup> The second letter, dated 29 July 2021, considered the "Additional Principles to the Draft Act".<sup>2</sup> In those letters, we pointed out that the Draft Act and its so-called "additional principles", then under review by the Council of State, were not compliant with Thailand's international human rights law obligations, particularly with respect to the rights to freedom of association, freedom of assembly, freedom of expression, the right to take part in political affairs, the right to privacy and the right to an effective remedy. These rights are subject to State guarantees under articles 2, 17, 19, 21, 22 and 25 of the International Covenant on Civil and Political Rights (ICCPR), by which Thailand is bound as State Party since 29 October 1996.

We appreciate that some of the principal shortcomings which the ICJ and other experts had highlighted have since been addressed, as reflected in the latest Draft Act. These include the removal of a provision requiring mandatory registration, the removal of imprisonment terms,

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<sup>1</sup> ICJ, 'Thailand: repressive draft law on the operation of not-for-profit organizations must be revised or scrapped', 31 March 2021, available at: <https://www.icj.org/wp-content/uploads/2021/03/Thailand-NPO-Submission-2021-ENG.pdf>

<sup>2</sup> ICJ, 'Thailand: stop using counter-terrorism financing measures to reduce civil society space', 29 July 2021, available at: [https://www.icj.org/wp-content/uploads/2021/07/FINAL\\_290721\\_EN\\_Letter-to-COS\\_with-ENCL.pdf](https://www.icj.org/wp-content/uploads/2021/07/FINAL_290721_EN_Letter-to-COS_with-ENCL.pdf)

and the amendment of the term “Not-for-Profit Organizations (NPOs)” to exclude groups gathering to implement “an *ad hoc* activity” or an activity that serves “only the interests of the group, or a political party”. However, a number of deficiencies are yet to be addressed in order to bring the Draft Act into line with Thailand’s international human rights obligations.

For reasons set out in detail in the following paragraphs, we would like to express our concerns and call for your immediate action to withdraw or substantially revise the Draft Act’s offending provisions because they are noncompliant with Thailand’s international legal obligations to respect and protect the right to freedom of association, expression, peaceful assembly, non-discrimination, the right to take part in the conduct of public affairs, and the right to an effective remedy. The Draft, if adopted and implemented without further revision, would likely serve to obstruct the essential work of human rights defenders and hinder efforts by Thailand and international stakeholders to engage in international cooperation and assistance on human rights.

### **Thailand’s obligations under international human rights law**

Article 22(1) of the ICCPR provides that “everyone shall have the right to freedom of association with others...”. It guarantees that NPOs may pursue their activities and operate without unjustified interferences, particularly by State authorities. Article 21 of the ICCPR protects the right to peaceful assembly,<sup>3</sup> which is vital to the work of NPOs that promote the realization of human rights as it enables them to publicly voice their message.<sup>4</sup> The UN Human Rights Council (HRC)<sup>5</sup> and the UN Human Rights Defenders Declaration<sup>6</sup> specifically recognize the critical role of the rights to freedom of peaceful assembly and of association for civil society in relation to the realization of all human rights.

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<sup>3</sup> UN Human Rights Committee, ‘General Comment No. 37 (2020) on the right of peaceful assembly (article 21) 37 on the right of peaceful assembly (article 21)’, UN Doc. CCPR/C/GC/37, 17 September 2020 (‘CCPR/C/GC/37’). Pursuant to paragraph 6, protected assembly consists of, among other things, demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils and flash mobs, wherever they take place: outdoors, indoors and online; in public and private spaces; or a combination thereof.

<sup>4</sup> Maina Kiai, Special Rapporteur on the rights to freedom of peaceful assembly and of association, ‘Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association’, UN Doc. A/HRC/23/39, 24 April 2013, paras 44-45. (‘A/HRC/23/39’)

<sup>5</sup> For example, Human Rights Council, ‘Resolution 24/5. The rights to freedom of peaceful assembly and of association’, UN Doc A/HRC/RES/24/5, 8 October 2013, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=dtYoAzPhJ4NMy4Lu1TOebIM8c1X4GZjGEGHV9SBM9XQqV7F5z%2BPq5GlmI5ITjdvdVU0tGVMSyUViLAYIYQwI2IDE8JUwqK%2F20i0Zmegp1WZS1z2fjpK5mEtIYLwT0XF5>. See also: Human Rights Council, ‘Resolution 22/6. Protecting human rights defenders’, UN Doc. A/HRC/RES/22/6, 12 April 2013, available at: <https://www.refworld.org/docid/53bfa8564.html>.

<sup>6</sup> The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (‘Declaration on Human Rights Defenders’) (UN Doc. A/RES/53/144 (1999)), adopted by the UN General Assembly with the consensus of Thailand and all other States, explicitly recognizes the rights of human rights defenders to peacefully assemble, to form, join and participate in non-governmental organizations, associations or groups and to communicate with non-governmental and intergovernmental organizations (article 5).

These rights are also related to other fundamental freedoms, including the rights to freedom of expression protected under article 19 of the ICCPR<sup>7</sup> and the right to take part in the conduct of public affairs protected under article 25 of ICCPR, which includes “exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves.”<sup>8</sup>

While the rights to freedom of association, assembly, expression and to take part in the conduct of public affairs are not absolute, the State may impose limitations on NPOs only in narrow circumstances and subject to strict conditions. Under article 22(2) of the ICCPR, any restriction on freedom of association must: (i) be prescribed by law. The law would need to be expressed with a degree of precision that would enable an individual or an organization to regulate their conduct accordingly and not confer on those who implement it “unfettered discretion” to restrict the right;<sup>9</sup> (ii) have a legitimate aim limited to protecting either “national security”, “public safety”, “public order”, “public health or morals” or the “rights and freedoms of others”, and (iii) be strictly necessary and proportionate to that aim.<sup>10</sup> These same conditions apply to certain other fundamental freedoms protected under the ICCPR, including freedom of expression (article 19) and freedom of assembly (article 21).<sup>11</sup> In addition, no restriction may be undertaken in a manner that is discriminatory, whether in purpose or effect.

## **Key concerns**

### Overbroad and vaguely-defined powers

The Draft Act contains imprecise and overbroad restrictions against NPOs, which has left it open to abusive and arbitrary application by the authorities. It fails to meet the conditions of legality and legitimate purpose, thus failing to comply with Thailand’s obligations under the ICCPR.

For example, **section 20 of the Draft Act** requires NPOs not to operate in the manner that affects: (i) “national security” including “economic security” and “international relations”; (ii) “public order or morals” or causing “the division within the society”; (iii) “public interest” including “public safety”; (iv) (perform) any act “violating national laws”; and (v) “the rights and freedom of others” or “the livelihood of other persons”.

These terms were invoked to limit the exercise of human rights. However, “economic security”, “international relation”, “the division within the society”, “public interest”, “the livelihood of other persons” and “violating national laws” are not enumerated as permissible

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<sup>7</sup> See also: UN Human Rights Committee, ‘General Comment 34: Article 19 – Freedoms of opinion and expression’, UN Doc. CCPR/C/GC/34, 2011. (‘CCPR/C/GC/34’)

<sup>8</sup> UN Human Rights Committee, ‘General Comment 25: Article 25 (Participation in Public Affairs and the Right to Vote) - The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service’, U.N. Doc. CCPR/C/21/Rev.1/Add.7, 1996, para 8.

<sup>9</sup> CCPR/C/GC/34, para 25.

<sup>10</sup> See also Article 17, Declaration on Human Rights Defenders, which says that limitations on rights and freedoms provided in the Declaration will only be limited to “applicable international obligations and ...determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society”.

<sup>11</sup> CCPR/C/GC/37, para 36.

grounds for restrictions under the ICCPR.<sup>12</sup> Nor are they provided for under the Constitution of the Kingdom of Thailand.<sup>13</sup> It should be emphasized that the grounds enumerated in the ICCPR - "national security", "public safety", "public order", "public health or morals" or the "rights and freedoms of others"- are the only grounds on which any restrictions may be based.

The terms "national security", "public order or morals", "public safety", and "protection of the rights and freedom of others", are recognized as legitimate purposes for which rights may be subjected to restriction under the ICCPR and Constitution of the Kingdom of Thailand. However, these terms appear in the text of the Draft Act without a clear delineation of their scope, limit, or definition. Categories of persons and organizations who will be subject to restriction under this draft law can be overbroad, in contravention of the principle of legality and legitimacy in accordance with the ICCPR. Such broad terms would also allow unequal treatment of certain disfavoured groups and associations critical of the government, in contravention of the principle of non-discrimination, with little scope to challenge government decisions.

Another section with imprecise and overbroad language is **section 21 of the Draft Act**, which prohibits NPOs to use foreign funding for any activities "in pursuing the state power" or "for the interest of any political parties". This section would allow authorities to apply arbitrary prohibitions that would prevent NPOs from addressing issues of public importance. The provision might also be used to delegitimize activities in defense of human rights on account of the origin of funding, inconsistent with the ICCPR. While it may be legitimate to enact regulations to ensure that NPOs are not an arm of political parties, many NPOs will necessarily and legitimately promote positions and interests that coincidentally may align with those of political parties and interests. An abusive application of section 21 could make such NPOs subject to these prescriptions. The language, therefore, needs to be modified to exclude such possibilities.

#### Discrimination against foreign funding

In the Draft Act, there is a clear tendency to discriminate against and stigmatize NPOs that receive foreign funding.

**Section 21 of the Draft Act** places a discriminatory burden on the organizations that receive foreign funding by requiring them to, *inter alia*, "inform the registrar the source of the foreign funding, the bank account receiving the funds, the amount received, and the purposes for the disbursement of the funds". **Section 22 of the Draft Act** requires that detailed income and expense reports for foreign funding must be prepared and made easily accessible to the public.

With regard to the access to resources and funding by NPOs, the UN Human Rights Committee, while evaluating laws on funding NPOs, has affirmed that access to funding is a part of the right to freedom of association.<sup>14</sup> The UN Special Rapporteur on the rights to

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<sup>12</sup> ICCPR provides that the freedom of association, expression, and assembly, where necessary, can be restricted based on "national security", "public safety", "public order", "public health or morals", and "protection of the rights and freedom of others".

<sup>13</sup> Section 34, 42 and 44 of the 2017 Constitution of the Kingdom of Thailand provides that the freedom of association, expression, and assembly can be restricted based on "public interest", "public order or good morals", "security of the State", "the health of the people", "the rights or liberties of other persons", and "preventing or eliminating barriers or monopoly".

<sup>14</sup> See UN Human Rights Committee, 'Concluding Observations of the Human Rights Committee: Egypt', U.N. Doc. CCPR/CO/76/EGY, 2002, para 21; and UN Human Rights Committee, 'Concluding

freedom of peaceful assembly and association and the UN Special Rapporteur on human rights defenders have stated that NGOs should have access to foreign funds to the “same extent” as the Government.<sup>15</sup> The UN Special Rapporteur on the rights to freedom of assembly and of association has also highlighted that access to resources is important for NPOs not only for the very existence of associations, but also to guarantee the enjoyment of other human rights of those who benefit from the work of the organizations. In this connection, undue restrictions on funding necessarily will adversely affect the full range of civil, cultural, economic, political and social rights the State is bound to protect.<sup>16</sup>

In addition, we understand that the above-noted restrictions were considered as counter-terrorism financing measures by the Thai government.<sup>17</sup>

Although Thailand has an obligation to address money laundering and terrorism in the NPOs sector, these must not be construed in an overly broad and arbitrary manner with a view to harming NPOs. The application and enforcement of declarative counter-terrorism standards – such as Anti-Money Laundering and Combating the Financing of Terrorism and Proliferation of Weapons of Mass Destruction (AML/CFT) standards and the UN Financial Action Task Force (FATF)’s recommendations, cannot be allowed to result in a *de facto* undermining of binding international law, including the ICCPR.<sup>18</sup>

In this regard, the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has emphasized that “Financial Action Task Force member jurisdictions are bound by their relevant obligations under international law, specifically international human rights and humanitarian law, including during participation in Task Force standard-setting processes and assessment

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Observations of the Human Rights Committee: Ethiopia’, U.N. Doc. CCPR/C/ETH/CO/1, 2011, para. 25. In addition, the Declaration on Human Rights Defenders provides in Article 13 of the Declaration that everyone has the right “individually and in association with others” to “solicit, receive and utilize resources” for protecting human rights. Notably, it makes no distinction between funding from domestic and foreign sources.

<sup>15</sup> Margaret Sekaggya, Special Rapporteur on the situation of human rights defenders, ‘Report of the Special Rapporteur on the situation of human rights defenders’, UN Doc. A/67/292, 2012, para 49; and Maina Kiai, Special Rapporteur on the rights to freedom of peaceful assembly and of association, ‘Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association’, UN Doc. A/HRC/20.27, 2012, para 69.

<sup>16</sup> A/HRC/23/39, para 9.

<sup>17</sup> For example, in June 2021, the Thai Cabinet approved the so-called additional principles proposed by the Anti-Money Laundering Office (AMLO) maintaining that they are needed to address “eight issues arising under international standards on AML/CFT, which Thailand fails to comply with”. These reportedly include, among others, the requirements for the NPOs to maintain information on the purpose and objectives of the organization’s activities, the beneficiaries of funds, the identity of donors, and information supplied by NPOs to foreign organizations; to issue detailed annual statements; to maintain records of all transactions; to be subjected to the investigation on the disbursement of funds.

<sup>18</sup> For example, mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders, ‘Communication Reference: AL SRB 3/2020’, 6 November 2020, at 4-5, available at:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?qId=25652>

proceedings, as well as when transposing relevant standards domestically.”<sup>19</sup> This consideration was stressed by the UN Security Council in Resolution 2462,<sup>20</sup> and the UN General Assembly in endorsing the United Nations Global Counter Terrorism Strategy.<sup>21</sup> It is also reflected in the FATF’s Interpretive Notes<sup>22</sup> and Best Practices Paper,<sup>23</sup> and enshrined in article 21 of the International Convention for the Suppression of the Financing of Terrorism.<sup>24</sup>

Furthermore, measures imposed on NPOs to protect them from terrorist financing abuse must be in line with the risk-based approach. The FATF stresses that States should apply “focused and proportionate measures”, “in-line with the risk-based approach” and “commensurate with the [terrorism financing] risks identified” to NPOs to protect them from terrorist financing abuse.<sup>25</sup> Measures applied to all NPOs in a uniform manner - a “one size fits all” approach - without assessing and determining risks, in consultation with NPOs, are inconsistent with the FATF’s recommendation.<sup>26</sup>

With respect to taking a risk-based approach, the FATF requires countries, including Thailand, to “identify which subset of organizations fall within the FATF definition of NPO, and use all relevant sources of information, in order to identify the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of terrorist financing abuse”, then review the adequacy of measures in order to be able to take proportionate and effective actions to address the risks identified.<sup>27</sup>

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<sup>19</sup> Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, ‘Promotion and protection of human rights and fundamental freedoms while countering terrorism’, 29 August 2019, UN Doc. A/74/335, 29 August 2019, para 38, available at: <https://undocs.org/A/74/335>

<sup>20</sup> UN Security Council, ‘Resolution 2462 (2019)’, UN Doc. S/RES/2462 (2019), 28 March 2019, para 6, available at: [https://undocs.org/en/S/RES/2462\(2019\)](https://undocs.org/en/S/RES/2462(2019))

<sup>21</sup> UN General Assembly, ‘60/288. The United Nations Global Counter-Terrorism Strategy’, UN Doc. A/RES/60/288, 8 September 2006, at 9, available at: [https://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/60/288&referer=/english/&Lang=E](https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/60/288&referer=/english/&Lang=E)

<sup>22</sup> FATF, ‘International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations’, at 58, available at: <https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf> (‘FATF Recommendations’)

<sup>23</sup> FATF, ‘Best Practices Paper on Combating the Abuse of Non-Profit Organisations’, June 2015, para 22, available at: <https://www.fatf-gafi.org/media/fatf/documents/reports/BPP-combating-abuse-non-profit-organisations.pdf> (‘FATF Best Practices Paper’)

<sup>24</sup> Article 21 provides that “Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes of the Charter of the United Nations, international humanitarian law and other relevant conventions.”

<sup>25</sup> FATF Recommendations, at 13 and 58; FATF Best Practices Paper, para 21.

<sup>26</sup> FATF Best Practices Paper, para 7(b). Explicit reference to the “risk-based approach” has also been made in recommendations made to Thailand pursuant to its Mutual Evaluation Report on anti-money laundering and counter-terrorist financing measures, released in December 2017. See: APG, ‘Mutual Evaluation Report on anti-money laundering and counter-terrorist financing measures’, December 2017, at 149, available at: <https://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/APG-MER-Thailand-2017.pdf>

<sup>27</sup> FATF, ‘Methodology: for assessing technical compliance with the FATF recommendations and the effectiveness of AML/CFT systems’, November 2020, at 39, available at: <https://www.fatf-gafi.org/media/fatf/documents/methodology/fatf%20methodology%2022%20feb%202013.pdf>

In Thailand, claims regarding foreign funding for NGOs are typically made against NPOs that are critical of the government.<sup>28</sup> Thailand has an obligation under article 26 of the ICCPR to ensure the prohibition under the law of any discrimination and guarantee to all persons equal and effective protection against discrimination on the basis of political or other opinions.

Under this Draft Act, such discriminatory requirements were also adopted despite the assessment made by Thailand's Anti-Money Laundering Office (AMLO) in 2019 where the NPOs at high terrorism financial risk are not necessarily those who receive foreign funding.<sup>29</sup> Such an approach under the Draft Act fails to recognize the legitimate work carried out by associations and their contribution to national development, merely because they are funded by foreign sources, and diverges from the "risk-based approach" guidelines as specified by FATF.

### Financial and reporting obligations

The unnecessary, disproportionate and onerous financial and reporting obligations under the Draft Act can be used as a means of reducing civil society space and chilling freedom of expression. They may also be overly broad, as they apply to the NPOs in their entirety, inconsistent with the risk-based approach as required by FATF.

While mandatory registration was removed from this Draft Act, **section 19 of the Draft Act** requires, for the sake of "the transparency", every NPO "to disclose information regarding its name, founding objectives, implementation methods, sources of funding, and names of persons involved with its operations; and to ensure that such information is easily accessible to government agencies and the public".

In this regard, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has expressed concerns that "the transparency and accountability argument has...been used to exert extensive scrutiny over the internal affairs of associations, as a way of intimidation and harassment" and has warned against "frequent, onerous and bureaucratic reporting requirements, which can eventually unduly obstruct the legitimate work carried out by associations".<sup>30</sup>

Such reporting requirements unduly obstruct the work of NPOs, particularly community-based organizations that may not have financial and administrative capacities and resources for such reporting and pose little or no risk of financing terrorism.

Further, the Thai government, again, adopts a one-size-fits-all approach to reporting and disclosure on all NPOs, inconsistent with the risk-based approach as required by FATF.

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<sup>28</sup> In an earlier draft which was made available to the public in March 2021, the bill states that the rationales for enacting the law are, inter alia, because: "several [NPOs] accepted money or properties from a natural person, juristic person or group of individuals who is not a Thai national or have not registered in the Kingdom of Thailand, and used them to fund their activities that may affect the relationship between the Kingdom of Thailand and its neighboring countries, or public order within the Kingdom".

<sup>29</sup> See: AMLO, 'NPO Risk Assessment Report', 2019. The results found that, in general, NPOs conducting activities in Thailand are at medium terrorism financial risk. And when considering by types of NPOs, Thai educational and social services NPO are at medium-high risk, Thai religious NPOs are at medium risk, while foreign NPOs and Thai health care NPOs are at medium-low risk.

<sup>30</sup> A/HRC/23/39, para 38

### Disproportionate penalties

Several minor violations of the law could lead to the halting of NPOs' operations. A high and burdensome fine for not complying with several duties as set out in the Draft Act also raises issues of proportionality, thus failing to comply with Thailand's obligations under the ICCPR. The person responsible for the operations of the NPO can also be criminally liable and may be subject to an additional stigma associated with being labeled a criminal beyond just the fines.

Subject to the Draft Act, the registrar may order the NPOs to halt their operations if they fail to report, conceal information that should be notified to the authorities, or perform any activities in the five areas which NPOs are barred from operating, as prescribed in **sections 19, 20, 21 and 22 of the Draft Act**.

Pursuant to **sections 25 and 26 of the Draft Act**, NPOs that fail to cease their operations as ordered by the registrar under sections 19 and 22 are punishable by a fine of up to 50,000 baht (1,500 USD), as well as an additional fine of up to 1,000 THB (30 USD) per day of delay during the period of the violation or until the violation is rectified. NPOs that fail to cease their operations as ordered by the registrar under sections 20 or 21 are subject to a fine of up to 500,000 baht (15,000 USD), as well as an additional fine of up to 10,000 THB (300 USD) per day of delay during the period of the violation or until the violation is rectified. **Section 27 of the Draft Act** establishes extensive personal liabilities against "the person responsible for the operations of the NPO", who shall likewise be held liable to the same punishment as the NPOs.

In this regard, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has emphasized that "if an association fails to comply with its reporting obligations, such minor violation of the law should not lead to the closure of the association or criminal prosecution of its representative; rather, the association should be requested to promptly rectify its situation".<sup>31</sup>

Although the removal of imprisonment terms from the Draft Act is welcome, the penalties set out in this Draft Act are still disproportionate, especially given the imprecise and overbroad restrictions against NPOs, which has left it open to abusive and arbitrary application by the authorities. Fines pursuant to sections 26 and 27 of the Draft Act are also considered substantial fines in Thailand even with big and well-established NPOs.

Pursuant to the Draft Act, the person responsible for the operations of the NPO can also be held criminally liable for violating these provisions. Criminal prosecution inevitably labels them as criminals who may be subject to more discrimination and stigma or other negative consequences as a result of such identity.

### Appeal Process

**Section 23 of the Draft Act** states that NPOs that are ordered by the registrar to halt their operation pursuant to sections 19-22 of the Draft Act may appeal such order to the Minister of Social Development and Human Security within 30 days. However, any pending appeal "shall have no mitigation on the order". The criteria for the appeal will be prescribed by the Committee for the Promotion and Development of Not-for-Profit Organizations.

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<sup>31</sup> A/HRC/23/39, para 38



The referral to an appellate authority is welcome. However, such proceedings can take a long time to come to a conclusion, and even a modestly prolonged delay could be highly detrimental and even fatal to an NPO and its work. Without imposing any mitigating clause, clear criteria for the appeal, or a strict timeline on which the appeal should be concluded, it deprives members of NPOs of their right to freedom of association and subjects them to lengthy and stressful proceedings for merely exercising their rights, in violation of their right to an effective remedy under article 2(3) of the ICCPR. The Section should be revised to indicate that any order should stay pending the exhaustion of the appeal.

## **Conclusion**

The Draft Act is not compliant with international law and standards, particularly those protecting the rights to freedom of association, freedom of assembly, freedom of expression, non-discrimination, the right to take part in political affairs, and the right to an effective remedy. It imposes undue restrictions and burdens on the legitimate activities of human rights defenders and activists while placing them at great risk.

Due to this, the ICJ would like to call for immediate review of the Draft Act with a view to ensuring that it complies with Thailand's international human rights obligations. In our view, the review should result in withdrawing or substantially amending the Draft Act, in particular sections 19-23 and 25-27, as a matter of priority.

Please do not hesitate to contact us if you have any questions or require further information or advice.

Yours faithfully,



Saman Zia-Zarifi  
Secretary General  
International Commission of Jurists

cc.

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