



## **The Kingdom of Thailand**

### **Joint Submission to the UN Universal Periodic Review 25<sup>th</sup> Session of the UPR Working Group**

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## **1. (A) Introduction**

- 1.1** CIVICUS: World Alliance for Citizen Participation is an international movement with members in more than 170 countries worldwide. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizens' freedom of association are threatened.
- 1.2** In this document, CIVICUS outlines urgent concerns related to the environment in which civil society activists and human rights defenders (HRDs) operate in the Kingdom of Thailand, and discusses serious threats faced in the exercise of the freedoms of expression, association and assembly.
- 1.3** CIVICUS is particularly concerned by unwarranted and grave restrictions and human rights violations committed following the 22 May 2014 military coup and subsequent installation of the National Council for Peace and Order (NCPO) under the auspices of General Prayuth Chan-ocha.
- 1.4** CIVICUS is further severely concerned by restrictions in practice on the free exercise of the rights to freedom of assembly and expression and the NCPO's excessive use of restrictive legal provisions in the Criminal Code and the 2007 Computer Crimes Act to silence dissenting voices.
- In Section B, CIVICUS provides a consolidated background on the political situation in the Kingdom of Thailand since the military coup of 22 May 2014.
  - In Section C, CIVICUS highlights concerns related to the right to freedom of association and restrictions on the activities of civil society organisations (CSOs).
  - In Section D, CIVICUS expresses concerns involving harassment and arbitrary detention of human rights defenders.
  - In Section E, CIVICUS highlights concerns relating to the right to freedom of expression, including intimidation, harassment and attacks on journalists.
  - In Section F, CIVICUS highlights concerns regarding the right to freedom of assembly.
  - In Section G, CIVICUS makes a number of recommendations to address the concerns listed.

## **2. (B) Background**

- 2.1** On 22 May 2014, a military coup was staged two days after the army declared martial law in Thailand. The National Council for Peace and Order (NCPO) junta, led by General Prayuth Chan-ocha, was established the same day and remains the predominant political actor in the country. The NCPO dissolved the lower House of the Parliament and abolished the 2007 Constitution. An Interim Constitution was drafted without proper public consultation and signed into force by King Bhumibol Adulyadej two months later on 22 July 2014. The National Legislative Assembly (NLA),<sup>1</sup> appointed by the NCPO and endorsed by the King on 31 July 2014, nominated General Prayuth Chan-ocha as the Prime Minister in August 2014. Martial law remained in force until 1 April 2015 and was replaced by a new 14-point security order, NCPO Order 3/2015, issued under article 44 of the Interim Constitution.<sup>2</sup> This constitutional provision gives sweeping powers to the Head of the NCPO, who can intervene unilaterally by issuing any order deemed necessary “to disrupt or suppress regardless of the legislative, executive or judicial force of that order” in the name of national security, reforms or unity. The NCPO Order 3/2015 creates “peace and order maintenance officers” allowing appointed military officers with a rank of Second Lieutenant or above to have sweeping powers to defend the security of the state, while also being provided immunity for any actions taken. These officers are mandated to investigate offences against the monarchy, offences against national security, offences related to ammunition, weapons and arms, and violations of NCPO’s Orders.<sup>3</sup> They can arrest and detain individuals up to seven days without official charges.<sup>4</sup>
- 2.2** Although in June 2014 the military junta announced a vague roadmap to restore democratic institutions and resolve the political crisis,<sup>5</sup> the NCPO has postponed elections on several occasions and has taken no credible steps to restore democracy. A 247-member National Reform Council (NRC) was formed with the aim of providing recommendations to reform the political system. Moreover, while a Constitutional Drafting Committee was selected in order to draft a new constitution, an initial draft was rejected by the NRC in September 2015.<sup>6</sup> Notably, the above-mentioned measures taken by the NCPO undermining democratic rights and freedoms since the coup have precipitated severe barriers on the realisation of the rights freedoms of association, peaceful assembly and expression.

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<sup>1</sup> The NLA consists of 200 members, of which 105 are active or retired military officers. Individuals who were active in political parties in the past three years were not eligible to be appointed to the NLA.

<sup>2</sup> Article 44 of the Interim Constitution gives the Head of the NCPO the power to issue any order deemed necessary “to disrupt or suppress regardless of the legislative, executive or judicial force of that order.”

<sup>3</sup> As was already the case under martial law, these offences fall under the jurisdiction of the military court.

<sup>4</sup> Prachatai (2 April 2015). *The consequences of revocation of Martial Law the Order of the junta head*.

Accessed via: <http://prachatai.org/english/node/4935>

<sup>5</sup> The Nation (12 June 2014). *NCPOs Roadmap throws up a number of possibilities*. Accessed via:

<http://www.nationmultimedia.com/politics/NCPOs-roadmap-throws-up-a-number-of-possibilities-30236037.html>

<sup>6</sup> The Guardian (6 September 2015). *Thailand elections as draft constitution is rejected*. Accessed via:

<http://www.theguardian.com/world/2015/sep/06/thailand-elections-delayed-as-draft-constitution-is-rejected>.

### **3. (C) Restrictions on freedom of association and impediments to civil society activities**

- 3.1** Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Thailand is a state party, guarantees freedom of association. While freedom of association was formerly guaranteed under article 64 of the 2007 Constitution, the Interim Constitution undermines this freedom as articles 44 and 47 endow the NCPO and the Head of the NCPO with the authority to issue any orders deemed necessary “to disrupt or suppress regardless of the legislative, executive or judicial force of that order” in the name of national security, reforms or unity, all of which will be legal, conclusive and constitutional.
- 3.2** Restrictions on the freedom of association following the military coup have manifested in the unabated harassment and interference of CSOs and their staff. For example, on 5 August 2015, Mr. Baramee Chairat, coordinator of the grassroots organisation, Assembly of the Poor, and board member of Amnesty International Thailand, was summoned by the Samranrat Police Station in Bangkok on charges of sedition under Article 116 of the Criminal Code for allegedly visiting and showing support to 14 pro-democracy activists prior to their arrest on 26 June 2015. The 14 activists were arrested for peacefully demonstrating against military rule in Bangkok on 24 and 25 July 2015.<sup>7</sup>
- 3.3** In several instances, operations of CSOs have been severely and unwarrantedly restricted through the forceful cancellation of public events, forums and meetings, in an effort to silence dissent and critical voices. In the first year of the military coup, at least 71 public events, especially those involving discussions on rights violations and the political situation in Thailand, were prevented from taking place.<sup>8</sup>
- 3.4** In June 2015, authorities cancelled a public event organised by human rights group, Thai Lawyers for Human Rights, to launch a report on human rights abuses since the 2014 coup, on the grounds that the event was “likely to cause disturbance”.<sup>9</sup>
- 3.5** On 16 November 2014, a public forum on “Thailand and inequality” organised by a group of social activists campaigning for legal and land reform led by advocate Nitirat Sapsomboon was shut down by the military junta. When the organisers tried to hold a

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<sup>7</sup> Bibi van der Zee (6 August 2015). *NGO Alert: Thailand NGO co-ordinator charged after allegedly supporting democracy activists*. In the Guardian Global Development professional network. Accessed via:

<http://www.theguardian.com/global-development-professionals-network/2015/aug/06/ngo-alert-thailand-ngo-co-ordinator-charged-after-allegedly-supporting-democracy-activists>

<sup>8</sup> iLaw - freedom (September 2015). *364 days after the coup: Report on the situation of freedom of expression in Thailand*. Accessed via <http://freedom.ilaw.or.th/en/node/259>

<sup>9</sup> Amnesty International (4 June 2015). *Thailand : Military's shutdown of event highlights free speech crackdown*. Accessed via: <https://www.amnesty.org/en/latest/news/2015/06/thailand-militarys-shutdown-of-event-highlights-free-speech-crackdown/>

press conference to explain why the forum could not take place, they were to forced cancel the press conference. Nitirat Sapsomboon and four other organisers were later taken to the Chana Songkhram police station in Bangkok for questioning and released hours later.<sup>10</sup>

**3.6** There are also reports of military personnel infiltrating civil society events and intimidating participants by taking photographs and recording the event. On 1 February 2015 a public discussion on the draft Cyber Security Act organised by the Santi Prachatham Library was subjected to unwarranted surveillance.<sup>11</sup>

#### **4. (D) Concerns involving harassment, intimidation and attacks against human rights defenders and civil society activists**

**4.1** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take necessary measures to ensure protection of human rights defenders. It remains a matter of serious concern that human rights defenders engaged in legitimate activities in Thailand continue to face harassment, intimidation, and threats. They also continue to be arbitrarily detained by the NCPO military junta.

**4.2** According to national watchdog groups, in the year following the 22 May 2014 coup, at least 751 individuals and human rights defenders, including prominent academics, civil society activists, journalists and members of diverse political groups were either summoned by the NCPO to report for ‘attitude adjustment’ or were arbitrarily detained for engaging in peaceful and legitimate human rights activities. The vast majority of those subjected to judicial harassment were sanctioned under article 15 of the Martial Law Act which allows authorities to detain individuals for up to seven days without charge.<sup>12</sup> Those who have been released have been forced to pledge to refrain from further political activities and not to travel outside of the country without the approval of the Head of the NCPO.

**4.3** Individuals who resume their human rights work following their release, or who refuse to report themselves after being summoned, face up to two years in prison or a fine of 40,000 baht (approximately USD 1,120). At least three individuals, including Mr. Sambat Boonngamanong, Associate Professor Worachet Pakeerut and Ms Jitra

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<sup>10</sup> The Nation (17 November 2014). *Land reform group forced to cancel press conference*. Accessed via: <http://www.nationmultimedia.com/webmobile/politics/Land-reform-group-forced-to-cancel-press-conferenc-30247903.html>

<sup>11</sup> iLaw - freedom (September 2015). *364 days after the coup: Report on the situation of freedom of expression in Thailand*. Accessed via <http://freedom.ilaw.or.th/en/node/259>

<sup>12</sup> Although martial law was revoked on 1 April 2015, the NCPO Order 3/2015 issued under article 44 of the Interim Constitution – which replaced martial law - allows the “peace and maintenance officers” to detain individuals up to seven days without charges. After April 2015 the practice of summoning and arbitrarily detaining individuals continued.

Kotchadet, are currently being prosecuted for violating these conditions.<sup>13</sup> The practice of summoning individuals for ‘attitude adjustment’ as a way to silence dissent by activists, academics, journalists and politicians, remains prevalent. Recently, on 13 September 2015, *The Nation* columnist Pravit Rojanaphruk was summoned and arbitrarily detained.<sup>14</sup> Days earlier former Minister of Energy Pichai Nariphaphan and former Member of Parliament Karun Hosakul were summoned on 9 and 10 September 2015 respectively.<sup>15</sup>

**4.4** On the first anniversary of the military coup on 22 May 2015, three pro-democracy activists belonging to the Resistant Citizen group, Sirawit Serithiwat, Pansak Srithep and Wannakiet Chusuwan, were arrested on their way to file a charge at the Criminal Court against General Prayuth Chan-ocha for unlawfully seizing administrative power and overthrowing the 2007 Constitution. In another instance of restriction of basic civil society freedoms, Thanapol Eawsakul, editor of *Fah Diew Khan* newspaper, was arrested on 5 July 2014 over a Facebook post which stated that the military authorities requested that he refrain from making critical remarks about the military junta.<sup>16</sup> In February 2015, Mr. Anond Nampha, a human rights lawyer and volunteer for Thai Lawyers for Human Rights, was asked to clarify 30 of his Facebook posts to the police who deemed them seditious to the military regime.<sup>17</sup>

## **5. (E) Concerns regarding freedom of expression, independence of the media, harassment and attacks on journalists**

**5.1** Article 19 of ICCPR guarantees the right to freedom of expression and opinion. Article 45 of the 2007 Constitution also guaranteed the freedom of expression and press. With the adoption of the Interim Constitution, these freedoms have been severely curtailed.

**5.2** In the days surrounding the coup, the military took unprecedented action to control the free flow of information in the country. From 20-24 May 2014, the NCPO effectively closed or blocked nearly 15 radio and television channels in a barrage of censorship which affected virtually the entire sector. While a number of these media outlets have since resumed operations, the NCPO has subsequently introduced several constricting regulations aimed at censoring reporting critical of the military. On 18 July 2014, the

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<sup>13</sup> Thai Lawyers for Human Rights (4 June 2015). *Human Rights One Year after the 2014 Coup: A Judicial Process in Camouflage Under the National Council for Peace and Order*. P. 2-3.

<sup>14</sup> The Guardian (14 September 2015). *Thai junta ‘invites’ then detains journalist*. Accessed via: <http://www.theguardian.com/world/2015/sep/14/thai-junta-detains-journalist-pravit-rojanaphruk>

<sup>15</sup> Prachatai (10 September 2015). *Another Pheu Thai politician summoned for ‘attitude adjustment’*. Accessed via: <http://www.prachatai.com/english/node/5460>

<sup>16</sup> Time (9 July 2014). *Thailand’s junta Arrests and Editor over a Facebook Comment*. Accessed via: <http://time.com/2968680/thailand-junta-editor-facebook-thanapol-eawsakul-fah-diew-khan/>

<sup>17</sup> Prachatai (20 February 2015). *Human rights lawyer interrogated over Facebook messages deemed anti-junta*. Accessed via: <http://www.prachatai.org/english/node/4803>

military junta issued Order 97/2014, prohibiting the dissemination of all information critical of the military or likely to cause conflict. While the NCPO has since loosened restrictions under Order 103/2014, including only banning criticism deemed “malicious” and “false”, those who violate the order may face an ethics inquiry under the auspices of media associations.<sup>18</sup>

**5.3** Moreover, section 5 of the Head of NCPO Order 3/2015, which replaced martial law in April 2015, can further be used to stifle dissent by empowering the Peace and Order Maintenance Officers to issue orders prohibiting “any item of news or the sale or distribution of any book or publication or material likely to cause public alarm or which contains false information likely to cause public misunderstanding to the detriment of national security or public order”. The lack of a clear definition of “national security,” “public order” or what could “likely cause public alarm” bestows the authorities with excessive discretion to persecute critical voices.<sup>19</sup> Those determined to have abrogated the decree face a prison sentence of up to one-year and/ or a fine not exceeding 20,000 Baht (approximately 560 USD).

**5.4** According to the national CSO, iLaw Freedom, in the 365 days following the coup, at least 166 individuals were arrested for expressing their opinion in public spaces.<sup>20</sup> A combination of legal restrictions on the freedom of expression have been used by the military junta to silence critical voices, such as *lèse majesté* (section 112 of the Criminal Code), sedition (section 116 of the Criminal Code), defamation (sections 326 and 328 of the Criminal Code) and the 2007 Computer Crimes Act.

**5.5** Section 112 of the Criminal Code, known as the *lèse majesté* provision, allows for a prison sentence from three to fifteen years for each count of defamation, insult or threat to the King, the Queen, the Heir to the Throne or the Regent. Aggressive enforcement of this article following the military coup has had a chilling effect on the freedom of expression. It has been invoked to silence activists, academics, journalists and politicians. While there were known cases of persecution under section 112 prior to the coup, there has been a precipitous rise in *lèse majesté* cases since 22 May 2014. In the year following the coup, at least 46 individuals were made to face charges under section 112.<sup>21</sup> As a consequence, self-censorship is being applied by most journalists and media outlets.

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<sup>18</sup> CIVICUS (20 August 2014). *CIVICUS Brief – Thailand: end crackdown on civil society and restore democratic freedoms*. Accessed via: <http://www.civicus.org/index.php/en/link-to-related-newsresources2/2098-civicus-brief-thailand-end-crackdown-on-civil-society-and-restore-democratic-freedoms>

<sup>19</sup> Joint statement of 4 Thai Professional Press Organisations: <https://www.facebook.com/notes/southeast-asian-press-alliance-seapa/on-the-ncpo-order-number-32558/802307993192772>

<sup>20</sup> iLaw - freedom (September 2015). *364 days after the coup: Report on the situation of freedom of expression in Thailand*. Accessed via <http://freedom.ilaw.or.th/en/blog/364-days-after-coup-report-situation-freedom-expression-thailand>

<sup>21</sup> Ibid.



- 5.6** For instance, Apichart Pongsawat, a law student and member of staff of the Legal Reform Commission of Thailand, was initially detained for participating in the anti-coup protests that took place on 23 May 2014 in front of the Bangkok Art and Cultural Centre and for violating NCPO Order 7/2014 that bans gatherings of more than five individuals. During the investigation, military police searched Apichart Pongsawat's phone and he was consequently charged under section 112 of the Criminal Code. He was detained for 26 days and refused bail before being released on 24 June 2014.<sup>22</sup>
- 5.7** In breach of international best practice defamation is a criminal offence in the Kingdom of Thailand and has been used to silence human rights advocates and journalists. Defamation under sections 326 and 328 of the Criminal Code is punishable with a prison sentence of up-to two years and a fine up to 200,000 Baht (approximately 5,600 USD).
- 5.8** On 8 August 2014, a criminal defamation suit against the Cross Cultural Foundations, a CSO that monitors cases of torture and ill-treatment, and its head Ms Pornpen Khongkachonkiet, was filed by the Royal Thai Navy in Yala Province for writing an open letter to the Commander of Internal Operations Security Command (ISOC) requesting an investigation into allegations of the physical assault on Malay migrant Adil Samae by paramilitary unit 41.<sup>23</sup> In another instance, two journalists of the online portal *Phuketwan*, Chutima Sidasathian and Alan Morison – were charged on 17 April 2014 with defamation and violating the Computer Crimes Act for publishing a paragraph from a Reuters special report on human trafficking of Rohingya which implicated officers of the Thai Royal Navy. Both were found not guilty of the charges on 1 September 2015.<sup>24</sup>
- 5.9** Section 14 of the 2007 Computer Crimes Act<sup>25</sup> criminalises any computer-related act that endangers national security or causes a “public panic,” especially when it concerns information that is deemed *lèse majesté*. The maximum penalty is five years in prison and a fine up to 100,000 Baht (approximately 2,800 USD). The Computer Crimes Act also gives the authorities the power to review individual data of web activities for the preceding 90 days. The Computer Crimes Act is also regularly invoked to silence freedom of expression. In one instance, webmaster Chiranuch Premchaiporn, of the Prachatai website – an independent newspaper - was accused of not deleting 10 online

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<sup>22</sup> Asian Human Right Defenders (2 June 2014). *Thailand: legal reform advocate charged with Lese Majeste*. Accessed via: <https://asianhrds.forum-asia.org/?events=thailand-legal-reform-advocate-charged-with-lese-majeste>

<sup>23</sup> Bangkok Post (31 August 2014). *Military sues human rights activist*. Accessed via: <http://www.bangkokpost.com/lite/news/429653/military-sues-human-rights-activist>

<sup>24</sup> The Guardian (1 September 2015). *Australian and Thai journalists found not guilty of defaming Thai Navy*. Accessed via: <http://www.theguardian.com/world/2015/sep/01/australian-and-thai-journalists-found-not-guilty-of-defaming-thai-navy>

<sup>25</sup> Draft amendments to the 2007 Computer Crimes Act are currently tabled at the National Legislative Assembly (NLA), together with the Cyber Security Bill and other “digital economy bills” that the NCPO is planning to enact in 2015.



comments that were deemed lèse majesté from her website quickly enough, and was charged under the 2007 Computer Crimes Act. She was given an eight-month suspended jail sentence, and a fine of 20,000 Baht (approximately 560 USD) in May 2012.<sup>26</sup>

**5.10** There are also serious concerns about the Cyber Security Bill,<sup>27</sup> which was approved by Prime Minister Prayuth Chan-ocha's Cabinet in January 2015 and is currently tabled at the National Legislative Assembly (NLA). The Bill gives sweeping powers to a government-run committee to detect online threats to national security, stability, military and the economy. Section 35 of the Bill gives the committee access to information on computers, phones and other devices without the need for a prior court order in breach of international best practices.

## **6. (F) Concerns regarding freedom of assembly**

**6.1** Article 21 of the ICCPR guarantees the freedom of peaceful assembly. While article 63 of the 2007 Constitution guaranteed the right to peaceful assembly, following the 2014 coup, a ban was placed on gatherings of more than five people through NCPO Order 7/2014, with penalties of one year imprisonment and/or 20,000 Baht (approximately 560 USD).

**6.2** After the coup, many protests and demonstrations took place in Thailand against the military coup and NCPO orders and policies, often followed by the arrest and detention of demonstrators. On 22 June 2014 for example, the police arrested at least eight demonstrators for publically reciting excerpts from George Orwell's novel, 1984. In addition, in a move aimed at controlling any form of dissent, the government formally banned individuals and groups from publicly displaying the "three finger salute," a symbol of defiance adopted by anti-coup activists.<sup>28</sup> According to the CSO, iLaw Freedom, at least 63 individuals were arrested during May and June 2014 alone, 24 of whom were convicted for violating NCPO Order 7/2014, but with suspended sentences.<sup>29</sup>

**6.3** On 14 February 2015, during a rally held in front of the Bangkok Art and Culture Center (BACC) four members of the dissident group Resistant Citizen were arrested

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<sup>26</sup> The Guardian (30 May 2012). *Thai webmaster found guilty over royal 'insults'*. Accessed via: <http://www.theguardian.com/world/2012/may/30/thai-webmaster-guilty-royal-insults>

<sup>27</sup> This Bill is part of a series of ten "digital economy bills" that the NCPO is planning to enact in 2015. <https://globalvoicesonline.org/2015/02/03/thailands-digital-economy-bills-could-worsen-media-repression/>

<sup>28</sup> CIVICUS (20 August 2014). *CIVICUS Brief – Thailand: End Crackdown on Civil Society and Restore Democratic Freedoms*. Accessed via: <http://www.civicus.org/index.php/en/link-to-related-newsresources2/2098-civicus-brief-thailand-end-crackdown-on-civil-society-and-restore-democratic-freedoms>

<sup>29</sup> iLaw - Freedom (September 2015). *364 days after the coup: Report on the situation of freedom of expression in Thailand*. Accessed via <http://freedom.ilaw.or.th/en/node/259>

and charged with violating NCPO Order 7/2014, which bans gatherings of more than 5 people. The four pro-democracy activists detained were Pansak Srithep, Sirawit Serithiwat, Anon Numpa and Wannakiet Chusuwan.<sup>30</sup> Human rights lawyer Anon Numpa faces additional charges for making Facebook posts under section 14(2) of the 2007 Computer Crimes Act, while Pansak Srithep faces three additional charges for his role in a demonstration on 17 March 2015: defying the ban on public gatherings, violating section 14 of the 2007 Computer Crimes act and for sedition under section 116 of the Criminal Code.<sup>31</sup>

- 6.4** On 26 June 2015, 14 students from the New-Democracy Movement were arrested on charges of sedition and violating the ban on public gatherings. The students participated in a peaceful demonstration against the coup on 24 and 25 June 2015. Two weeks later the students were released by the military court in Bangkok, but the charges were not dropped.<sup>32</sup>
- 6.5** The Public Assembly Act, which was passed in July 2015 in the National Legislative Assembly (NLA) outlines detailed procedures to exercise the right to peaceful assembly. “Unlawful assemblies” – assemblies that do not comply with the provisions of the Act, such as not seeking permission from the police at least 24 hours prior to the rally – can be punished by a six-month prison sentence and/or a fine of 10,000 Baht (approximately 280 USD). Moreover, the Act gives broad powers to the authorities to deny permission to hold a demonstration. Disobeying an order to leave a rally site can lead to a one year imprisonment and/ or 20,000 Baht (approximately 560 USD) fine, which could also be invoked for “any disruption of public service, such as public transportation, telecommunications, water and electricity supplies”. The Act outlines several time and place restrictions of marches and demonstrations. Marching is prohibited between 6 PM to 6 AM, and assemblies need to take place in the time frame specified by the organisers. They cannot take place within 150 meters of the Royal Palace, the Parliament, the Government House or Courts.
- 6.6** On 5 September 2015, a peaceful demonstration against the draft constitution at the Bangkok Arts and Culture Center (BACC), organised by the Democracy Student Group, was prevented by police and military officers stating that the demonstration would take place within a radius of 150 metres of the Palace, which is one of several place restrictions in the recent enacted Public Assembly Act. The organisers moved the event slightly further from the BACC, while several supporters were prevented by police

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<sup>30</sup> Prachatai (22 April 2015). *Military court postpones deposition hearing of 4 embattled democracy activists*. Accessed via: <http://www.prachatai.com/english/node/4989>

<sup>31</sup> Ibid.

<sup>32</sup> The Guardian (7 July 2015). *Thai military court releases 14 student protesters after calls from EU and UN*. Accessed via: <http://www.theguardian.com/world/2015/jul/07/thai-military-court-releases-14-student-protesters-after-calls-from-eu-and-un>

officers from joining the rally.<sup>33</sup>

## **7 (G) Recommendations to the Government of the Kingdom of Thailand**

CIVICUS calls on the Government of the Kingdom of Thailand to create an enabling environment for civil society. At a minimum, the following conditions should be guaranteed: freedom of association, freedom of expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made:

### **7.1 Regarding suspension of the 2007 constitution**

- Citizens' rights must be restored through the promulgation of a constitution that is in harmony with Thailand's obligations under international human rights law and is subjected to a process of extensive public consultation.

### **7.2 Regarding restrictions on the freedom of association and impediments to civil society activities**

- The practice of harassing and detaining civil society activists undertaking legitimate activities should be stopped by issuing requisite instructions to law enforcement agencies.
- Senior officials should refrain from criticising civil society activists and institute a process of dialogue with the civil society sector on the restoration of democratic rights to the people of Thailand.

### **7.3 Regarding harassment, intimidation and attacks against civil society members and human rights defenders**

- Civil society members and human rights defenders should be provided with a safe and secure environment to carry out their legitimate activities. All instances of violations of their rights through arbitrary detention, use of force and threats should be subjected to an independent investigation.

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<sup>33</sup> Prachatai (5 September 2015). *Military and police prevent anti-junta gathering in downtown Bangkok*. Accessed via: <http://www.prachatai.com/english/node/5448>

- Law enforcement agencies should be issued instructions not to harass human rights and defenders and journalists.
- All human rights defenders and journalists detained for exercising their freedoms of expression, association and assembly should be immediately released.

#### **7.4 Regarding restrictions on freedom of expression and access to information, and intimidation, harassment and attacks on journalists**

- The practice of issuing executive orders to restrict the freedom of expression in breach of international human rights law should be forthwith discontinued. All such existing orders should be withdrawn.
- The media should be allowed to function independently and free of any prior censorship or interference by law enforcement agencies.
- Efforts should be commenced to review all provisions of the Criminal Code that impinge on freedom of expression, in particular provisions related to lèse majesté and criminal defamation.
- Efforts should be commenced to amend or repeal the 2007 Computer Crimes Act.
- The practice of monitoring social media to prevent the right to freedom of expression should be discontinued.

#### **7.5 Regarding restrictions on freedom of assembly**

- Efforts should be commenced to repeal the Public Assembly Act.
- Law enforcement agencies should be issued instructions to enable the right to peaceful protest.
- Law enforcement agencies dealing with crowd control should be given training on UN Basic Principles on the Use of Force and Firearms.

#### **7.6 Regarding access to UN Special Procedures mandate holders**

- Efforts should be made to enable visits by UN Special procedures, in particular, the Special Rapporteur on the Situation of Human Rights Defenders, the Special Rapporteur on Freedom of Expression and the Special Rapporteur on Freedom of Peaceful Assembly and of Association.