

THAILAND

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Part 1: Overview of Thailand

A. Country Background

Thailand Facts	
Geographical size	513,000 sq km
Population	68.86 million ¹
Ethnic breakdown ²	Main ethnic groups: Thai (91.5%) Khmer (2.3%) Malay (2.1%) Bamar (1.5%)
Official language	Thai
Literacy rate (aged 15 and above)	92.9% ³
Life expectancy	75.07 ⁴
GDP	US\$406.84 billion (per capita US\$5,907) ⁵
Government	Constitutional monarchy and parliamentary democracy until 2014 coup d'état by military junta. The country is now run by the National Council for Peace and Order (NCPO) but even following a general election, the military will still continue to wield significant political power by virtue of the 2017 Constitution.
Political and social situation	The military-run NCPO passed its draft Constitution after a referendum during which the rights to freedom of expression, association, and assembly were curtailed through repressive laws, leading to the arrest and detention of at least 120 politicians, activists, and journalists. ⁶

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¹ Data from 2016. 'Thailand' The World Bank, available at <https://data.worldbank.org/country/thailand>, accessed on 12 October 2017.

² 'Largest ethnic groups in Thailand' World Atlas, available at <http://www.worldatlas.com/articles/largest-ethnic-groups-in-thailand.html>, accessed on 12 October 2017.

³ Data from 2015. 'Literacy rate, adult total (% of people ages 15 or above)' The World Bank, available at <https://data.worldbank.org/indicator/SE.ADT.LITR.ZS?locations=TH>, accessed on 25 October 2017.

⁴ Data from 2015. The World Bank (see note 1 above).

⁵ Data from 2016. The World Bank (see note 1 above); 'GDP per capita (current US\$)' The World Bank, available at <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=TH>, accessed on 12 October 2017.

⁶ 'Thailand: Events of 2016' Human Rights Watch, 2016, available at <https://www.hrw.org/world-report/2017/country-chapters/thailand>, accessed on 12 October 2017.

Thailand is a mainland Southeast Asian country which borders Myanmar in the west, Laos and Cambodia in the east, and Malaysia to the south. In 2016, the population was 68,863,514. The majority of the population hails from the Tai ethnic group and is Buddhist, but in the southern areas of Yala, Pattani, and Narathiwat provinces and some districts of Song Khla province, 85% of the 3.4 million population is Malay Muslim. In addition, Thailand is home to more than 50 other ethnic minorities.

Thailand is categorised fairly highly (87 out of 188 countries) in the United Nations Development Programme (UNDP) Human Development Index 2016. As such, Thai life expectancy at birth stands at 75.1 years, with an average of 10.5 infant mortalities per 1,000 live births, and 20 maternal mortalities per 100,000 live births. Moreover, the literacy rate among adults (aged 15 and older) stands at an impressive 92.9% with no significant difference between the genders.⁷

In terms of economic development, Thailand stands firmly in the upper middle-income level although its GDP decreased slightly in the past two years (from US\$406.52 billion in 2014 to US\$406.84 in 2016) despite a sustained rise since 2002.⁸ Furthermore, the number of people living below the poverty line has decreased significantly since the 1980s, from 42.33% of the total population in 2000, to 16.37% in 2010, down to 10.84% in 2013.⁹

System of governance

Thailand is a constitutional monarchy with the monarch as head of state. Prior to 2014, power was exercised by a bicameral National Assembly, the Council of Ministers, and the courts in accordance with the 2007 Constitution. Since May 2014, however, when the military staged a coup d'état, Thailand has been under the military rule of an organisation called the National Council for Peace and Order (NCPO) which controls the country's administrative affairs. It appointed the National Legislative Assembly (NLA) comprising 200 members, mainly from the military and civil services, to act as a legislative body in lieu of parliament and the Senate Houses. In addition, the NCPO suspended all elections of local representatives at the sub-district, district, municipal, and provincial levels until further notice. Moreover, new members of local representative councils are appointed by a Selection Committee comprising of high level provincial officials from the Ministry of Interior.¹⁰

⁷ Data from 2015. The World Bank (see note 1 above).

⁸ The World Bank (see note 1 above).

⁹ Office of the Permanent Secretary, Ministry of Social Development and Human Security, Poverty, Income and Household Expenses, Bangkok, 2015, at 1.

¹⁰ Order of the Head of the National Council for Peace and Order No 22/2559, on the Process to Temporarily Acquire Members of Local Representative Councils in Case of Dissolved Local Council, 4 May 2016, para 2.

Political and social situation

Currently, with the junta still in full control of the government, there seems little prospect of the country returning to representative democracy as the NCPO's proposed roadmap towards a new general election has been constantly postponed despite the new Constitution already coming into effect.

In August 2016, the efforts of the NCPO-nominated Constitution Drafting Committee were passed in a referendum after being further amended according to the King's request; the ensuing Constitution has been in effect since 6 April 2017. However, the Constitution's legitimacy is in doubt because freedom of expression was curtailed during the referendum process, e.g. comments on the draft were strictly controlled and campaigning against it outlawed. Moreover, in many aspects it is not human rights friendly despite retaining some provisions on rights and liberties from its predecessor. For example, it allows the government to limit, restrict, and (in cases of emergency) even suspend some civil and political rights, including the rights to religion (Art 31), freedom of expression (Art 34), freedom of association (Art 42), and peaceful assembly (Art 44), if it suspects national security, public order, or the good morals of the people will be adversely affected or harmed.

Therefore, despite the new Constitution, the NCPO's power remains intact, its influence over the future elected government guaranteed. Indeed, Art 265 upholds the NCPO's power and authority according to the 2014 Interim Constitution (as drafted by the NCPO) until a new cabinet is formed. This power includes provisions under Art 44 granting absolute power to the head of the NCPO. Furthermore, the 2017 Constitution also permits the NCPO to continue holding power until a new government is established following a general election. Accordingly, any NCPO order, announcement, or action will remain enforceable until legislation is drafted to change it (Art 276). As such, in effect, even if Thailand's democracy were restored in the future, the repressive orders and regulations already enacted by the junta would remain in force.

B. International Human Rights Commitments and Obligations

Despite the restrictions it places on its people, Thailand is doing relatively well in terms of international human rights commitments, having ratified most of the key international human rights treaties (see Table 1 below).

Table 1: Ratification Status of International Instruments – Thailand¹¹

Treaty	Signature Date	Ratification Date, Accession (a), Succession (d) Date
Convention against Torture and Other Cruel Inhuman or Degrading Punishment (CAT)		2 Oct 2007 (a)
Optional Protocol of the Convention against Torture		
International Covenant on Civil and Political Rights (ICCPR)		29 Oct 1996 (a)
Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty		
Convention for the Protection of All Persons from Enforced Disappearance (CED)	9 Jan 2012	
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)		9 Aug 1985 (a)
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)		28 Jan 2003 (a)
International Covenant on Economic, Social and Cultural Rights (ICESCR)		5 Sep 1999 (a)
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)		
Convention on the Rights of the Child (CRC)		27 Mar 1992 (a)
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict		27 Feb 2006 (a)
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography		11 Jan 2006 (a)
Convention on the Rights of Persons with Disabilities (CRPD)	30 Mar 2007	29 Jul 2008

¹¹ 'Ratification status for Thailand' United Nations Human Rights Office of the High Commissioner, available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx, accessed on 12 October 2017.

Several laws and amendments have been introduced into the country's legal system to ensure compliance with international laws and standards, including:

- Name Act (2005): grants married women the right to choose a family name instead of being obligated to use their husband's family name
- Domestic Violence Victim Protection Act (2007)
- Persons with Disabilities Empowerment Act (2007)
- Prevention and Suppression of Human Trafficking Act (2008)
- Female Title Act (2008): allows a married or divorced woman to choose to use the title 'Miss' or 'Mrs' as desired
- Civil Registration Act No 2 (2008): allows all persons born in Thailand to be registered, irrespective of the origin or status of their parents
- Civil Code amendments: improves criminal justice practices
- Gender Equality Act (2015): "unfair gender discrimination" defined on two grounds (sex by birth (female/male), or the apparent sex of a person which may differ from his/her sex by birth)

Significantly, however, the Gender Equality Act (2015) permits discrimination in the name of national security or to ensure compliance with religious principles (s.17). Further, it should be noted this law does not criminalise discrimination or even directly protect a person from discriminatory violence; instead, it merely establishes two commissions, namely, a Gender Equality Promotion Commission and a Gender-Based Discrimination Adjudication Commission, to act as monitoring bodies. The latter receives complaints from alleged victims and may order remedies and compensation if it deems discrimination to have occurred, or it may submit a law for review by the Constitutional Court if it believes the law may potentially be discriminatory.

The cabinet also approved the draft Torture and Enforced Disappearances Prevention and Suppression Bill as a legal tool to enforce the CAT and CED but the NLA rejected it in early 2017 and is now in the process of revising it.

C. National Laws Threatening Human Rights

Public Assembly Act (2015)

After years of debate and contention, the Public Assembly Act was finally passed by the NCPO's National Legislative Assembly in 2015 with absolutely no public input. For the first time, the Act required organisers to seek prior notification and permission for any public assembly activities or demonstrations. However, some areas, including a number of government offices, including Government House and Parliament, are barred from being used for such purposes – this will prevent even non-obstructive protesters from symbolic acts such as handing petitions to politicians. Thus, concerns have been raised over the Act's potential to violate freedom of assembly rights. Indeed,

it is regularly used together with several NCPO orders to control political activities and peaceful assemblies.

Interim Constitution (2014), Art 44

In April 2015, the NCPO finally lifted martial law which had been enforced throughout the country since the coup, determining instead to derive its absolute power from a more legitimate source. Article 44 of the Interim Constitution confers absolute power on the Head of the NCPO to act or stop any act it deems necessary to proceed with the country's reform process, or to prevent and suppress any act that may undermine national security, the stability of the nation, the monarchy, or the national economy. Article 44 also grants impunity to the NCPO, making it legally unaccountable for any actions and orders.

Since its enforcement in lieu of martial law, Art 44 has been used in a range of issues including the shuffling of government officials, the recruitment of local administrative councils, human trafficking, deforestation, and to confiscate land for Special Economic Zones. Put simply, Art 44 allows the democratic process to be bypassed, effectively circumventing public participation in the policy-making process.

One key order issued under Art 44 severely affecting human rights is NCPO Order No 3/2558 (2015) which targets wrongdoings against the monarchy under lèse-majesté, wrongdoings against internal national security, armed crimes, any acts against the NCPO, or any orders given by its head. Moreover, it prohibits political assemblies of more than 5 people, whilst authorising military officers to ban media and newspapers, become involved in criminal procedures relating to such acts, and summon and detain suspected individuals for 7 days, essentially suppressing political rights and rights to a fair trial.

Amended Computer Crimes Act (2017)

In December 2016, the NLA also passed the amended Computer Crimes Act 2017 (entering into force as of May 2017) to further expand state control of online content, thus empowering the Ministry of Digital Economy and Society to demand internet service providers and social media administrators remove information without a court order. It also set up a Computerised Information Scrutiny Committee to monitor online content for material contradictory to public order and morals (s.20). In addition, the Committee may request court orders to erase or remove such content.

D. Recent Court Cases Relating to Human Rights

'Referendum' cases

In 2016, at least 120 activists, politicians, and journalists were charged for, e.g. criticising the proposed constitution, publicly announcing they would vote 'no,' or urging other voters to reject the draft, under such laws as the Constitutional Referendum Act, the Computer Crime Act, s.16 of the Penal Code (on sedition), and NCPO orders censoring the media and preventing public gatherings of more than 5 people.¹² For example, on 16 June 2016, charges were filed against 19 members of the political group, United Front for Democracy in Dictatorship, for violating a ban on political meetings. The group had attempted to hold an opening ceremony on 5 June at their headquarters to mark an initiative to monitor the referendum. Police stormed the offices, forced the group to stop their ceremony, and closed monitoring centres around the country.¹³

Lèse-majesté cases

Thailand has some of the world's strictest lèse-majesté rules against defaming, insulting or threatening the monarchy. As such, the offence has been used to judicially harass human rights defenders and their relatives. Among the key cases of 2016 was the charge against the mother of Siriwit Seritiwat, a leading pro-democracy student activist. Despite a lack of substantive grounds, the mother was brought to military court for simply sending a one word reply to an alleged lèse-majesté text message.¹⁴ While the police declined to proceed with the case, the military court admitted it. The mother has now been released on bail.

Another well-known case concerns Jatupat Boonpattaraksa (or Pai Dao Din), a student activist from the northeast. In addition to a couple of cases concerning his participation in pro-democracy activism, Pai was charged with lèse-majesté for sharing a BBC News profile page of the new King Rama X. However, almost 3,000 other people also sharing the page were not, indicating he had been specifically targeted for something other than his post. In August 2007, Pai was denied bail and sentenced to 5 years' imprisonment.

¹² Human Rights Watch (see note 6 above).

¹³ 'Thailand: 13 peaceful activists facing trial' Amnesty International, 4 July 2016, available at <https://www.amnesty.org/en/documents/asa39/4386/2016/en/>, accessed on 12 October 2017.

¹⁴ Burin Intin, the sender of the original message, was also charged with lèse-majesté and sentenced to 22 years and 8 months in prison in January 2017 but this was reduced to 11 years and 4 months after he pleaded guilty. See, Pasha-Robinson, L, 'Man jailed for 11 years for insulting Thai royal family on Facebook' Independent, 29 January 2017, available at <http://www.independent.co.uk/news/world/asia/man-jailed-11-years-thailand-insulting-royal-family-monarchy-burin-intin-bangkok-a7551096.html>, accessed on 9 November 2017.

Part 2: Outstanding Human Rights Issues

As mentioned above, at the end of 2016, Jatupat Boonpattaraksa (or Pai Dao Din) was charged by a military officer for sharing a BBC article deemed insulting to the new King Rama X on his Facebook page. This was clearly an indirect attack on his political activism as almost 3,000 other people also sharing the same page were not similarly charged. The public prosecutor took up the case. Although Pai was initially granted bail, the court later revoked it, claiming he was still posting about political issues on social media. Subsequently, Pai was denied further bail and was tried in a closed door trial. In August 2017, he was sentenced to 5 years' imprisonment which has since been reduced to 2.5 years after he admitted the crime.

Pai's case is not isolated and reflects how the issues of freedom of expression, the right to a fair trial, and the persecution of human rights defenders are interrelated in Thailand; and, indeed, how these rights are fast deteriorating under military rule. As a result, the populace has had to endure severe restriction of their political rights to participate meaningfully in government, in addition to the erosion of many other human rights, including economic, social, and cultural rights. This chapter identifies: (1) freedom of expression; (2) the right to access an impartial criminal justice system including the right to a fair trial; and (3) the problems facing human rights defenders, as three outstanding human rights issues in 2016, partly because these rights have been severely and openly curtailed, and partly because their demise may be the precursor of other human rights also falling by the wayside.

The following section will review the problems and analyse the trends and prospects of the above rights by examining how they interrelate and how they affect wider human rights issues.

A. Freedom of Expression and Peaceful Assembly

In recent years, the military junta attempted to claim some level of legitimacy by reforming Thai politics and society, ostensibly to remove power from the hands of corrupt politicians. As such, it has suppressed dissident voices and limited political space though the use of draconian laws and NCPO orders. While repressive measures may create an atmosphere of fear and help to control so-called undesirable behaviours, they have also given birth to an increasing chorus of voices protesting dictatorial rule. Freedom of expression has thus become an area of growing contention which has, in turn, helped to shape human rights discourse in recent years.

Generally, the NCPO uses the Computer Crime Act, lèse-majesté and sedition laws, and its repressive orders to keep the population in line. As reported by iLaw (an NGO monitoring political rights after the coup), at least 1,319 people were summoned or visited by soldiers, both formally and informally, and at least 152 public activities were

either interfered with or forced to cancel as of 30 June 2017.¹⁵ In addition, by mid-May 2017, 300 civilians¹⁶ were/are being prosecuted in military courts, with at least 64 individuals charged and prosecuted for sedition under s.116 of the Penal Code.¹⁷

Two key events in 2016 forced the issue of freedom of expression firmly into the limelight. First, political activists chose the referendum to approve the draft constitution in August as a platform to demand more say in the future of their country. However, their efforts to push the boundaries by campaigning against the draft constitution came to nought when the NCPO quelled many voices of protest, ensuring victory in the referendum. Coincidentally, the death of King Bhumibol in October 2016 helped the NCPO's cause as it provided more legitimate grounds for curbing freedom of opinion and expression under the guise of showing reverence to the passed King and securing a peaceful transition to his son.

Despite being the highest law in the land, the 2017 Constitution was, thus, drafted without genuine public participation. Moreover, the referendum was administered in such a way as to almost guarantee support for the NCPO's draft Constitution. The NCPO derived its suppressive measures from the Constitutional Referendum Act and its appointed NLA which criminalised any discussion on the draft that could influence the public to vote in a certain way, that could "cause confusion to affect [the] orderliness of voting," and the use of "offensive" or "rude" language to influence votes (s.61). By thwarting public discourse, the Constitutional Referendum Act was therefore used to suppress any opinions or campaigns, ensuring the success of the NCPO's one-sided campaign.

The Thai Lawyer for Human Rights (TLHR)—a lawyer group monitoring human rights after the 2014 coup—has reported more than 200 legal cases related to the referendum (brought under NCPO Order No 8/2558 (2015) prohibiting political gatherings or s.116 of the Penal Code on sedition), some of which involved dissemination of documents commenting on the draft, possession of 'Vote No' leaflets, organisation of public seminars to discuss the draft, and the setting up of 'Anti-Cheating in Referendum Centres.' As of April 2017, with the Constitution already in force, at least 104 individuals are still facing legal charges related to the referendum, with 92 being prosecuted in military courts. Among those whose cases have already been finalised, some were sentenced to prison while others agreed to receive "attitude adjustment training" from the military in exchange for having their cases dismissed.¹⁸

¹⁵ 'Latest statistics' iLaw, available at <https://freedom.ilaw.or.th/node/209/#>, accessed on 25 July 2017.

¹⁶ An individual may face more than one case.

¹⁷ 'Latest statistics' iLaw, 2017, available at <https://freedom.ilaw.or.th/en/content/latest-statistic>, accessed on 30 June 2017.

¹⁸ For more details, see, "TLHR's legal opinion on prosecutions of 'referendum suspects'" Thai Lawyer for Human Rights, 23 December 2016, available at <http://www.tlhr2014.com/th/?p=3095>, accessed on 22 February 2017; and 'New Constitution in use but more than 104 'referendum suspects' are still being prosecuted' (in Thai), Thai Lawyer for Human Rights, available at <http://www.tlhr2014.com/th/?p=3924>, accessed on 22 February 2017.

Such blatant suppression of discussion and campaigning on the draft Constitution not only violated citizens' basic rights to freedom of expression but also their rights to participate in the political affairs of state. This will have long-term implications on the country's democratic transition since the Constitution also includes provisions requiring subsequent governments to follow the so-called 20-year National Strategic Plan drafted by the NCPO, again, without popular participation.

Section 112 of the Criminal Code (or the *lèse-majesté* law) is another tool commonly used to control dissidents. Since the coup, at least 68 new *lèse-majesté* cases have been brought before the courts.¹⁹ Moreover, such defendants are usually denied bail and, in most cases, face harsh sentences. Worse, under NCPO Order No 37/2557 (2014), *lèse-majesté* cases may now be tried in military court where a fair trial cannot be guaranteed. Based on information received from the Office of the Judge Advocate General, Thai Lawyer for Human Rights report a striking number of cases charged under this law: between the May 2014 coup and 30 November 2016, 86 such cases were heard in military court.²⁰

Freedom of expression cases under the *lèse-majesté* law also rose significantly after the death of King Bhumibol on 13 October 2016. Less than 20 days later, the National Police Bureau reported 25 new cases alone.²¹ During this period, other means to limit freedom of expression were similarly strengthened. In particular, the internet came under strict scrutiny with many websites shut down after the King passed away. For example, the Deputy Prime Minister in charge of the Ministry of Digital Economy and Society reported that less than two weeks before the King's death (1-12 October 2016), 100 "inappropriate" websites were closed down. And in the period 13-31 October 2016, the NCPO exercised its authority under Order No 26/2557 (2014) to close a further 200 URLs, and even requested court orders to shut down 1,150 overseas-based URLs identified as inappropriate. To date, 700 of these have already been granted by the court.²²

¹⁹ 'Report of political charges after the coup' iLaw, 2016, available at <https://freedom.ilaw.or.th/politically-charged>, accessed on 31 October 2016.

²⁰ This Order was invoked September 2014.

²¹ 'Police found 25 violators of Article 112 – 10 arrested' (in Thai), INN News, 31 October 2016, available at <http://www.innnews.co.th/show/740246/%E0%B8%95%E0%B8%A3.%E0%B9%80%E0%B8%9C%E0%B8%A2%E0%B8%9E%E0%B8%9A%E0%B8%9C%E0%B8%B9%E0%B9%89%E0%B8%97%E0%B8%B3%E0%B8%9C%E0%B8%B4%E0%B8%94%E0%B8%A1.112%E0%B9%81%E0%B8%A5%E0%B9%89%E0%B8%A725%E0%B8%A3%E0%B8%B2%E0%B8%A2-%E0%B8%A3%E0%B8%A7%E0%B8%9A10%E0%B8%84%E0%B8%99>, accessed on 20 May 2017.

²² Kao Sod, 'Prajin reveals 900 URLs lese-majeste-security issues closed, mostly on YouTube' (in Thai), 2 November 2016, available at https://www.khaosod.co.th/breaking-news/news_80736, accessed on 20 May 2017.

B. Right to a Fair Trial

While martial law was lifted in April 2015, normal administration of justice was not fully restored as numerous NCPO orders remained in place. One such example which severely impacts the right to a fair trial is Order No 3/2558 (2015) stipulating the use of military courts to try civilians. Passed under Art 44, this provision was introduced soon after martial law was lifted, meaning in effect, it is a descendent of that law. Authorising military officers to censor a variety of media and arbitrarily detain individuals up to 7 days, and criminalising political meetings of more than 5 people and unapproved peaceful assemblies, the order also formalises “attitude adjustment training” as an alternative to detention if submitted to voluntarily.

Rights to a fair trial were further restricted under NCPO Order No 13/2559 (2016) which broadly identified some criminal activities “dangerous to the peace and order or undermining of national economic and social systems” to include, for example, crimes against or concerning reputation, immigration, narcotics, human trafficking, transportation regulations, child rights, and weapons. By endowing “Prevention and Suppression Officers” (who are recruited from the military) with extensive powers, this order, thus, denies individuals all rights to a fair trial and criminal justice. Appointed officers also have powers to arrest, detain, and search suspects without a warrant, and hold suspects in non-detention facilities for up to 7 days with impunity as such actions are not subject to judicial review.

Together with the use of Art 44 of the Interim Constitution, these orders permit the NCPO to bypass normal criminal justice procedures, thereby putting those they see as enemies of the state at a great disadvantage. For example, in early October 2016, under Art 44, 100 armed security force members raided a university in Bangkok and arrested 44 students. The authorities suspected the students of possessing arms in preparation of committing violent acts at a public event. Only 11 students were released immediately while the rest were detained for a couple more days. In the next few weeks, more were arrested and arbitrarily detained. This abuse of power, excessive use of force, and denial of just criminal procedures to large groups of innocent individuals clearly reveals the state’s dismissive attitude towards an impartial and fully functioning criminal justice system.

Significantly, the NCPO is now beginning to show signs that it cares about its international image. In September 2016, a few days before the Thai UPR report was about to be reviewed by the UN Human Rights Council, the NCPO used its authority under Art 44 to halt the use of military courts against civilians in lèse-majesté cases, international security provisions of the Criminal Code cases, and firearm-related offences from 12 September 2016 onwards. Nevertheless, the order does not have retroactive effect meaning pending military court cases and any alleged crimes committed before 12 September 2016 will remain before military courts which not

only operate behind closed doors (to avoid disclosure of sensitive national security information) and lack a right to appeal, but are also partial and often incompetent (only one of the three presiding judges is required to have legal knowledge). Thus, the number of civilians tried or being tried in such courts in the three years after the referendum is a cause for alarm. By 30 November 2016, the Judge Advocate General reported that 2,177 civilians were tried or are being tried in military court, with 416 cases pending.²³

The lack of a fair trial particularly affects the rights of human rights activists as will be discussed below.

C. Protection of Human Rights Defenders

As the Pai case and the above discussion on freedom of expression shows, human rights defenders have become particular targets of the repressive state, with judicial harassment being one of its main tactics. In the past three years, at least 170 have faced legal charges.²⁴ 2016 alone, witnessed a couple of key court cases filed against such groups by either the state or businesses using criminal defamation and/or the Computer Crime Act. Moreover, many cases are brought against local communities fighting to defend their natural resources from state or private encroachment. Among the most well-known are defamation complaints by mining companies against anti-mining movements in Pichette and Loei provinces involving huge compensation claims, and another case lodged by a poultry farming business against migrant workers from Myanmar complaining about labour rights issues on the farm. These law suits are both expensive and time-consuming, especially for local communities who may have limited financial support and access to legal advice. In addition, individuals may be placed under surveillance or face state harassment, e.g. by being summoned to meetings with the military.

NGO workers have also faced similar law suits filed by both businesses and the state. For example, in direct retaliation to a report on torture in the deep south provinces, the Internal Security Operations Command (ISOC) filed defamation and violation of Computer Crime Act suits against three NGO workers heading the organisations producing the report. Although the cases were settled through negotiation and the ISOC promised not to proceed,²⁵ the mere fact they were filed conveys a familiar and chilling message; that the military will tolerate no questions on its human rights record.

²³ See, 'Civilians still go to military court: Revealing the statistics of civilians in military court, 3rd year' (in Thai), Thai Lawyer for Human Rights, 2017, available at <http://www.tlhr2014.com/th/?p=3498>, 17 February 2017, accessed on 25 May 2017.

²⁴ '13 networks of human rights defenders complain to UN Special Rapporteur: Revealing hundreds of cases after the coup' (in Thai), Prachatai, 30 May 2017, available at <https://prachatai.com/journal/2017/05/71704>, accessed on 3 June 2017.

²⁵ Although at the time of writing, it has yet to formally withdraw the charges.

Physical attacks and intimidation towards human rights activists and community organisers are also widespread. For example, Sirawit Seritiwat, the student activist whose mother was charged with lèse-majesté for acknowledging a text message, was attacked and abducted by masked and uniformed security agents in January 2016, although he was quickly released by the military courts who refused to detain him further. Sirawit's case received public attention because he is a well-known activist but in rural areas where human rights defenders are less recognised, whether they would fare so well is doubtful. Consequently, many cases either go unnoticed or there may be scant attempt to bring the perpetrators to justice. For example, five land rights activists from the Southern Peasants Federation have either been assassinated or survived assassination attempts in the past six years, likely at the behest of the companies they are in conflict with. Even so, regrettably, the state has shown little will to either investigate or provide protection to these groups.

Part 3: Conclusion

With limited political space tolerated during the military junta's long rule, Thais face a grim human rights outlook. The NCPO uses both legal and extra-legal means to restrict popular freedom of expression, impacting the exercise of other rights and participation in vital policy-making processes. While freedom of expression, rights to a fair trial, and the protection of human rights defenders have been curtailed, other human rights issues pertinent in 2016 include those caused by development projects and policies, violence in the deep south, and the regression of universal health care schemes. At the base of these issues lies the need to affirm freedom of expression and assembly to enable every individual to speak out for his or her rights without fear of reprisal.

Thus, in Thailand's latest transition to democracy, there is an urgent need to expand these restricted boundaries to enable interaction, negotiation, and dialogue between the state and its people. Without this expansion of political space, clashes between the military junta and those promoting democracy and human rights will continue until democracy has been fully restored. Another challenge for human rights defenders is to document all current violations to enable the perpetrators to be brought to justice. Justice, however, is a rare commodity in a country as tightly controlled as Thailand where human rights violators are often allowed to act with impunity.