



“MY FACE BURNED AS IF ON FIRE”

UNLAWFUL USE OF FORCE BY THAILAND’S POLICE DURING PUBLIC ASSEMBLIES

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Cover photo: Police fired water cannon with chemical irritants directly at protesters on 16 October 2020
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GLOSSARY

WORD	DESCRIPTION
GUIDELINES ON BASIC PRINCIPLES	Amnesty International's guidelines on the implementation of the United Nations (UN) Basic Principles of the Use of Force and Firearms by Law Enforcement Officials
ICCPR	The International Covenant on Civil and Political Rights
PROTEST/VOLUNTEER GUARD	Individuals who volunteer to protect protesters from violence through guarding protesters who are marching or facing harm or violence, negotiating with the police, and de-escalating tensions between protesters and counter-protesters. At times, they remove barriers placed by authorities to facilitate protesters to be able to achieve their objectives.
UN BASIC PRINCIPLES	The UN Basic Principles of the Use of Force and Firearms by Law Enforcement Officials
UN GUIDANCE ON LESS-LETHAL WEAPONS	The UN Guidance on Less-Lethal Weapons in Law Enforcement

EXECUTIVE SUMMARY

“They [riot police] used batons to beat all over my body... until a plain-clothes officer came and said: ‘The order was to capture, not beat up [protesters].’... This is not an arrest. This is battery.”

A 16-year-old protester who was beaten by riot police shortly after he joined the protest on 28 February.

Throughout 2020, tens of thousands of Thais took to the streets and converged around significant landmarks in the capital city, Bangkok, and in the provinces across Thailand to demand democratic reforms. The youth-led popular movement followed six years of small and medium-scale peaceful protests over the country’s governance since the National Council for Peace and Order (NCPO) assumed executive power following a military coup in May 2014. Thai authorities have persistently targeted and persecuted activists, human rights defenders, journalists, political opponents and many others for expressing views critical of government action. As the protest movement grew throughout 2020, so too did the severity of the response by the Thai police to those participating in public assemblies.

Amnesty International monitored the way the Royal Thai Police managed protests in late 2020 and early 2021, including particularly the use of force by Thai law enforcement officials. Based on expert analysis of 87 verified videos and interviews with 25 victims and eyewitnesses, along with reports from Amnesty International’s on-the-ground monitors, the organization assessed the policing and management of pro-democracy youth protests by Thai authorities in the context of their obligations under international human rights law and standards.

Among the seven incidents examined in this report, Amnesty International found multiple violations of the right to freedom of peaceful assembly by the Thai authorities. This report also shows that Thai law enforcement authorities failed to protect protesters from being harmed on multiple occasions. In fact, in some cases, police forces were responsible for inflicting violence on individuals exercising their right to peaceful assembly. Amnesty International found the use of force by Thai law enforcement authorities to control largely peaceful assemblies to be unnecessary and disproportionate, in violation of international human rights law and standards.

Riot police deployed water cannons, sometimes laced with chemical irritants, on four occasions (16 October, 8 November, 17 November 2020 and 28 February 2021) to disperse protests that were largely peaceful, in violation of international human rights law and

standards. Accounts from eyewitnesses and victims, confirmed by verified videos of the events, described water jets being aimed at close range at the upper and lower body parts, including the head, of protesters, protest guards,¹ journalists and observers. There were instances when water trucks operated by Thai law enforcement officers were used indiscriminately to target peaceful protesters and journalists on the streets, those standing on elevated areas, and protesters who were pressed so tightly together they were unable to move or find cover.

On 17 November, at two separate locations near the Parliament House in Bangkok (the Kiakkai Intersection and in front of the Boonrawd Brewery building), riot police fired tear gas canisters and water cannons laced with chemical irritants at peaceful protesters from a distance of approximately 10m. Peaceful protesters were subjected to this direct and constant barrage of chemical irritant canisters and water cannons for five and a half hours. Eighteen individuals interviewed by Amnesty International reported sustaining injuries or witnessing others who sustained injuries from being hit by water cannons or inhaling the chemicals released from tear gas canisters.

Those who spoke to Amnesty International reported experiencing coughing fits and other breathing difficulties, skin and eye irritation and redness, chemical burns, burning sensations in the nose, lungs and skin, and nasal blood discharge. A volunteer protest guard described being shot at by water cannons and inhaling tear gas fired by riot police for several hours on 17 November 2020: “I felt fatigued. Drenched all over my body. Rankled, pained. I was so battered; I was numb with pain. We could not go on.”

Amnesty International also documented unlawful use of force by riot police against peaceful protesters on 28 February 2021. Victims and eyewitnesses reported the police kicking protesters with their combat boots and hitting them with shields and batons. Police in tactical gear used their batons to strike protesters on the head, neck, back and abdomen, even after the protesters had been apprehended.

Amnesty International also documented the unlawful use of rubber bullets by Thai authorities on 28 February 2021. Eyewitnesses and one victim recounted rubber bullets being fired by riot police after protesters started to retreat peacefully. There are approximately 10 reports of injuries sustained from rubber bullets during this incident.

In two incidents on 17 November 2020, Amnesty International also found that police failed to fulfil their positive obligation to protect those participating in the peaceful assembly from violence that occurred between different groups of protesters. The police failed to take preventive measures to separate protesters and counter-protesters or de-escalate tension. In one incident, at the Kiakkai Intersection, the police removed barricades that until then had separated one group of pro-democracy demonstrators from pro-government counter-demonstrators. The removal of the barricades led to confrontations between the two groups. In the other incident, also at the Kiakkai Intersection, officers failed to prevent violence caused by armed individuals at a peaceful assembly. During both incidents, police failed to promptly intervene and prevent violence. Serious violence between protesters and counter-protesters was avoided only due to efforts by the demonstrators themselves to de-escalate and negotiate during the confrontations.

The police officers who used force failed to display visible identification on their uniforms during any of the incidents analysed by Amnesty International. Following a letter requesting information from the Royal Thai Police and their lack of response, Amnesty International has

¹ Volunteers who are not among the protesters. They act as ‘marshals’ of the protests by keeping the protest peaceful, protecting the protesters, negotiating with the police and counter-protesters to de-escalate tensions.

also been unable to confirm whether these police officers received any specific training on policing assemblies or the use of less-lethal weapons.

Law enforcement officials have the obligation under domestic and international law to protect and facilitate the right to freedom of peaceful assembly. They should be guided by the human rights principles of legality, necessity, proportionality and non-discrimination when policing assemblies. Specifically, law enforcement authorities have the positive duty to take reasonable and appropriate measures so that peaceful assemblies may take place without those who are participating in them fearing physical violence.

Furthermore, the authorities may disperse an assembly only in exceptional cases. For example, an assembly may be dispersed when it is no longer peaceful or if it is clear that an imminent threat or serious violence exists that cannot be addressed by more proportionate measures. Authorities must exhaust non-violent means when dispersing an assembly before resorting to the use of force. The use of force must remain the last resort. Officers may deploy force only when it is completely unavoidable – meaning all peaceful means have proven ineffective to achieve lawful enforcement purposes – and they must do so in compliance with the principles of legality, necessity and proportionality.

The Metropolitan Police Bureau, the department responsible for managing the protests examined in this report, claimed that protesters violated Thailand's Public Assembly Act,² which is repressive and vaguely worded. The police reportedly justified their actions by saying they were "enforcing the law to warn the protesters and take control of the area".³

Since the arrest and detention of four prominent pro-democracy activists on 9 February 2021, tensions have again increased between demonstrators and the Thai authorities. This report should also serve as a vigorous reminder to the Thai government and its law enforcement agencies of their obligation to facilitate and protect peaceful assembly.

For incidents examined in this report and other occasions where there are claims of unlawful use of force by authorities, the Thai authorities must investigate and prosecute officers responsible for excessive, unnecessary use of force in criminal, civil and disciplinary actions.

METHODOLOGY

The report is based on research conducted by Amnesty International from January to March 2021. Information was gathered from a variety of sources, including 25 interviews with protesters, protest marshals or guards, journalists, observers and human rights defenders.

While some of the individuals interviewed chose to share their identities publicly, others requested anonymity due to security concerns. All interviewees gave informed consent in advance of being interviewed. Before asking for consent, Amnesty International's researcher explained the purpose of the research, how the information would be used, and potential risks to all interviewees. Interviews were only carried out after consent was given. Amnesty International did not provide any incentives in exchange for interviews.

Amnesty International's Crisis Evidence Lab also analysed 87 videos covering seven incidents in collaboration with the Digital Verification Corps (DVC), a network of volunteers trained in open-source research and analysis. Certain emblematic incidents were selected for analysis due to the extensive reports of use of force by police and reports of violence between

² The Public Assembly Act. In English, see <http://lawdrafter.blogspot.com/2015/08/translation-thai-public-assembly-act-of.html>

³ "[LIVE] 11.10 am police's press conference on the public assembly (18 Nov 20)", *Voice TV*, 18 November 2020, <https://www.youtube.com/watch?v=4q7WYt1tGdI> and "Police argue water cannon mixed with chemical irritants #Mob27November", *Thai PBS*, 24 November 2020, <https://news.thaipbs.or.th/content/298621>

protesters, counter-protesters and third parties. For each video, the DVC verified data of capture and uploading on social media and geolocation of content.

The information gathered was corroborated with monitoring videos and reports collected by Amnesty International Thailand and Internet Law Reform Dialogue (iLaw)'s collaborative database called MobData, which is based on evidence gathered by human rights monitors present at protests. Amnesty International also drew upon photographic evidence collected from victims and eyewitnesses of the incidents, media reports, statements and announcements made by government officials. Any ambiguous results were subjected to further investigation and analysis. Amnesty International also reviewed relevant national legislation and guidelines on the management of assemblies in the context of the applicable international human rights legal framework relating to the right to freedom of peaceful assembly.

This report does not address concerns about arbitrary restrictions on freedom of expression or information or about irregularities in the Thai justice system that may hinder due process of law and the rights to a fair trial.

In April 2021, Amnesty International sent a letter with the report's findings to the Royal Thai Government and the Royal Thai Police and expressed readiness to discuss the report's findings with officials.

1. BACKGROUND

THE 2014 COUP: A LEGACY OF REPRESSION

On 22 May 2014, the Royal Thai Armed Forces launched a coup, the 12th since Thailand shifted from absolute monarchy to constitutional monarchy in 1932. The military immediately established the National Council for Peace and Order (NCPO), which is composed of high-ranking military and civilian security forces. It was headed by General Prayut Chan-O-Cha, who was then the Royal Thai Army's commander-in-chief. The military repealed most of the 2007 constitution, including all of its human rights provisions, dissolved the parliament and assumed full legislative and executive control of the country. It justified these actions by saying that these were necessary to maintain peace following the months-long protest against the former government led by Yingluck Shinawatra.⁴

In the years that followed, the military-led government cracked down heavily on dissent.⁵ The NCPO issued hundreds of orders and announcements, including decrees that restricted or weakened the protection of human rights. These led to various human rights violations, including arbitrary detention,⁶ incommunicado detention, detention of civilians at military facilities, enforced disappearances, torture and other ill-treatment, media censorship and other restrictions on freedoms of expression and peaceful assembly. Unfair trials took place and civilians were placed under the jurisdiction of the military court.⁷

The NCPO declared martial law in May 2014 and issued a decree banning “political” assemblies of five or more persons.⁸ These measures were used against those who held and expressed critical views of government actions. Within a year of taking power, the military government passed the Public Assembly Act that further imposed excessive restrictions on the right to peacefully assemble, including criminal and financial sanctions on those who hold public assemblies without prior notification of authorities.⁹ Authorities justified the introduction of this new legislation as necessary to prevent the disruption of public services and to prevent violence.¹⁰ Before this law was enacted, participants in public assemblies had been charged under traffic laws or emergency powers.

Peaceful protests are an important avenue for marginalized communities in Thailand to raise their grievances, and Thailand has a long history of popular social and political protests. On several occasions, police and military officials in Thailand have used unlawful levels of force

⁴ “Thailand’s coup leaders detain former PM Yingluck”, *BBC News*, 23 May 2014, <https://www.bbc.co.uk/news/world-asia-27544972>

⁵ Amnesty International, *Thailand: Free speech crackdown creating ‘spiral into silence’* (Press release, 9 December 2014), <https://www.amnesty.org/en/latest/news/2014/12/thailand-free-speech-crackdown-creating-spiral-silence/>

⁶ Amnesty International, *Urgent Action: Hundreds at Risk of Arbitrary Detention* (Index: ASA 39/007/2014)

⁷ Amnesty International, *Thailand: Attitude Adjustment 100 Days under Martial Law* (Index: ASA 39/011/2014), *Thailand; Restrictive Environment for Human Rights, Submission to the UN Universal Periodic Review* (Index: ASA 39/3539/2015), *They Cannot Keep Us Quiet”: The Criminalization of Activists, Human Rights Defenders, and Others in Thailand* (Index: 39/5514/2017) and *They are always watching”: Restricting Freedom of Expression Online in Thailand* (Index: ASA 39/2157/2020)

⁸ “Unofficial translation of the [Head of the] NCPO order No.3/2015”, *Voice from Thais*, <https://voicefromthais.files.wordpress.com/2015/04/order-number-3-2558-3-2015-of-the-head-of-the-ncpo-on-maintaining-public-order-and-national-security.pdf>

⁹ The Public Assembly Act. In English, see <http://lawdrafter.blogspot.com/2015/08/translation-thai-public-assembly-act-of.html>

¹⁰ Note of the Public Assembly Act (in Thai), http://web.krisdika.go.th/data/law/law2/%A1152/%A1152-20-2558-a0001.htm#_ftnref1

and sometimes even used lethal weapons when dispersing public assemblies. During these occasions, protesters often suffered injuries as a result of the police's use of firearms, tear gas and water cannons.

In 2008, for instance, law enforcement officials fired tear gas canisters at pro-democracy protesters.¹¹ Even though there was sporadic violence from the protesters, the authorities' use of force was disproportionate. At least 443 were reported injured in the protests in 2008.¹² Many of the protesters suffered skin blisters as a result of chemicals used in water cannons.¹³

In 2010, the Royal Thai Army reportedly fired live ammunition at pro-democracy protesters after officials allowed the use of firearms and lethal force.¹⁴

Based on these occasions when Thai authorities used unlawful levels of force on peaceful assemblies, it appears that they only use force against those protesters who are critical of the government. In 2014, prior to the coup, Thai authorities did not use unnecessary force to disperse the protests of a pro-establishment group, the People's Democratic Restoration Committee.

On 25 April 2017, the UN Human Rights Committee expressed concern over the arrest of hundreds of peaceful protesters by Thai authorities and recommended that the government refrain from imposing restrictions not compliant with the requirements of Article 4 of the ICCPR, which regulates how human rights obligations are to apply when a state declares an emergency.¹⁵

Following the 2014 coup, dozens of activists went into exile and fled to neighbouring Southeast Asian countries, such as the Lao People's Democratic Republic and Cambodia, while those who remained in Thailand continued to face harassment and threats. Several individuals who fled to neighbouring countries mysteriously disappeared and their fates and whereabouts remain unknown to this day.¹⁶ The Thai government now faces allegations by the general public that it was complicit in the disappearances of these individuals.

The activists who remained in Thailand in the years following the 2014 coup took to the streets to demand elections, a new constitution and human rights protections. Hundreds of activists, human rights defenders, journalists and those belonging to the political opposition faced harassment, intimidation and surveillance by military and civil security officials. Authorities prosecuted hundreds of individuals under criminal laws that unduly infringe the right to freedom of expression. These laws include those on royal defamation (*lèse-majesté*)¹⁷ and sedition (Sections 112 and 116 of the Criminal Code, respectively)¹⁸ and computer-related offences under the Computer Crime Act.

Between May 2014 and July 2019, civilians charged with national-security-related offences and possession of firearms were tried in military courts.¹⁹ Defendants in military courts faced extreme delays and repeated rescheduling and irregularities in court proceedings, and they

¹¹ "Police fire tear gas at People's Alliance for Democracy (PAD) protesters in front of the Bangkok Metropolitan Police Bureau", *Manager Online*, 29 August 2008, <https://mgronline.com/crime/detail/9510000102452>, and "Foreign media report police fired tear gas at protesters in front of the Parliament", *Manager Online*, 7 October 2008, <https://mgronline.com/around/detail/9510000118811>

¹² "Special Report: 7 October 2008...killers of PAD protesters still at large", *Manager Online*, 19 July 2012, <https://mgronline.com/politics/detail/9550000088790>

¹³ *Ibid.*

¹⁴ "Thailand protests: crackdown against redshirts – as it happened", *The Guardian*, 19 May 2010, <https://www.theguardian.com/news/blog/2010/may/19/thailand-crackdown-redshirts>

¹⁵ Concluding Observations of the UN Human Rights Committee: Thailand, UN Doc. CCPR/C/THA/CO/2 (2017), para. 40

¹⁶ Amnesty International, *Cambodia: Fears of abduction for Thai activist in exile: Wanchalearm Satsaksit* (Index: ASA 23/2517/2020), and *Thailand: Open letter: Investigate the enforced disappearance of Wanchalearm Satsaksit and the disappearances and alleged executions of other Thai exiles* (Index: ASA 39/4232/2021)

¹⁷ Amnesty International, *Thailand: US Ambassador probe highlights 'absurd' restrictions on freedom of expression* (Press release, 9 December 2015), <https://www.amnesty.org/en/latest/news/2015/12/thailand-us-ambassador-probe-highlights-absurd-restrictions-on-freedom-of-expression/>

¹⁸ Section 112 of the Thai Criminal Code carries a maximum sentence of 15 years' imprisonment for those "whoever defames, insults or threatens the King, the Queen, the Heir-Apparent or the Regent" and Section 116 of the Thai Criminal Code carries a maximum sentence of seven years' imprisonment for sedition-like crime.

¹⁹ Per Announcement of the National Council for Peace and Order No.37/2557 (2014), Announcement of the National Council for Peace and Order No.38/2557 (2014), and Announcement of the National Council for Peace and Order No.50/2557 (2014). These orders were later revoked by Order of Head of the National Council for Peace and Order No.55/2559 (2016).

were denied the right to appeal to a higher court.²⁰ Some individuals were not indicted by prosecutors or acquitted after prolonged trials, while some were convicted and imprisoned simply because of their peaceful exercise of human rights.²¹ Many others continue to face trials to this day.²²

After almost five years under direct military rule, a general election was held in March 2019 under a military-drafted constitution and following another crackdown on dissidents and political opponents. The military-backed Palang Pracharat Party won a majority of the seats in the two houses of parliament and appointed General Prayut Chan-O-Cha as prime minister.²³ The results led to widespread criticism of the legitimacy and fairness of the elections and sparked a new wave of protests.

In July 2019, some 100 NCPO orders were lifted. However, laws passed by the National Legislative Assembly of Thailand – the legislative body established by the NCPO – still remain in force, including the repressive and broadly-defined Public Assembly Act.

THAILAND'S YOUTH MOVEMENT

The continued rule of the military-dominated government in Thailand and its persistent repression of dissent fuelled a burgeoning popular resistance movement mainly led by youth groups, such as the Ratsadon (People) group, Free Youth, United Front of Thammasat and Demonstration. This movement has emerged organically over the last few years and appears not to have a clear leadership structure. During the past few years, thousands of university and secondary school students have participated in public protests alongside non-student protesters.

In January 2020, thousands of runners participated in “Runs against Dictatorship” held by local activists in at least 30 provinces throughout Thailand.²⁴ In February, several groups organized dozens of “flash mobs,” or quick peaceful gatherings of individuals in universities, schools and public spaces, in order to express condemnation of the Constitutional Court’s decision to dissolve Thailand’s then third-largest opposition party, the Future Forward Party.²⁵

As part of the government’s response to the outbreak of the Covid-19 epidemic, Prime Minister General Prayut Chan-O-Cha invoked the Emergency Decree of 2005 and declared a nationwide state of emergency on 26 March 2020, which remained in effect until 31 July 2021.²⁶ Using powers under the Decree, the prime minister issued Regulation 1, which includes a broadly worded ban on any assemblies or activities in “any place that is crowded.”²⁷ Authorities were granted expansive powers and discretion to arrest and prosecute

²⁰ International Commission of Jurists, *Joint submission to the UN Human Rights Committee by the ICJ and Thai Lawyers for Human Rights*, 13 February 2017, <https://www.icj.org/joint-submission-to-the-un-human-rights-committee-by-the-icj-and-thai-lawyers-for-human-rights/>, Lawyers’ Rights Watch Canada, *Thailand: Trials of civilians in military courts violate international fair trial rights: Judicial harassment of lawyers and human rights defenders*, 25 May 2015, <https://www.lrwc.org/thailand-trials-of-civilians-in-military-courts-violate-international-fair-trial-rights-statement/>, Thai Lawyers for Human Rights, *No note-taking, no dissemination: the Military Court’s practices are non-compliant with the principle of open trial and democratic principles*, 4 December 2018, <https://tlhr2014.com/archives/9870>, Thai Lawyers for Human Rights, *20 reasons why civilians should not be tried in military courts*, 10 April 2019, <https://tlhr2014.com/archives/11801>

²¹ Amnesty International, *Thailand: 87-year prison sentence handed in harshest lèse-majesté conviction* (Press release, 19 January 2021), <https://www.amnesty.org/en/latest/news/2021/01/thailand-87-prison-sentence-lese-majeste/>

²² For example, Police Major Sa-ngiam Samranrat, former leader of the United Front for Democracy Against Dictatorship (UDD) is still facing charges for failure to report to the National Council for Peace and Order’s summons of activists and human rights defenders in 2014. Thai exiles, including the alleged enforced disappeared victim Wanchalearm Satsaksit, also face charges in relation to the NCPO’s summons, announcements and orders.

²³ Amnesty International, *Thailand: Decision to dissolve political party shows restrictive environment for human rights* (Press release, 7 March 2019), <https://www.amnesty.org/en/latest/news/2019/03/thailand-decision-dissolve-political-party-restrictive-environment-human-rights/> and *Thailand: Authorities must reverse dissolution of opposition party Future Forward Party* (Press release, 21 February 2020), <https://www.amnesty.org/en/latest/news/2020/02/thailand-authorities-must-reverse-dissolution-of-opposition-future-forward-party/>

²⁴ “Thais Run Against ‘Dictatorship’ In Bangkok Protest”, *Bloomberg*, 12 January 2020, <https://www.bloomberg.com/news/articles/2020-01-12/thousands-run-against-dictatorship-in-thai-capital>

²⁵ Amnesty International, *Thai Authorities’ Covid-19 Response Must Not Lead to Unwarranted Restrictions on Human Rights and Freedom of Expression* (Index: ASA 39/2042/2020) <https://www.amnesty.org/en/documents/asa39/2042/2020/en/>

²⁶ Declaration of an Emergency Situation in all areas of the Kingdom of Thailand on 25 March 2020

²⁷ Clause 5 of Regulation No.1 Issued under Section 9 of the Emergency Decree on 25 March 2020

individuals who carried out any acts deemed to have violated Regulation 1 and “caused unrest”.

Even with the limitations under Regulation 1 and other lockdown measures imposed to curb the spread of Covid-19, public protests, mostly participated in by youth groups, continued between March and May, albeit smaller in scale compared to those in previous months. In May 2020, a group of young activists used laser beams to project messages on a number of historical landmarks in Bangkok to mark the 10th anniversary of the deadly crackdown on the May 2010 protests, which saw 84 civilians and 10 members of security forces killed.²⁸

On 4 June 2020, Wanchalearm Satsaksit, a Thai activist who had sought exile in Cambodia, was abducted outside his Phnom Penh residence. His abduction gave the protest movement further momentum.²⁹ The Student Union of Thailand led protesters to call on Cambodian and Thai authorities to undertake an immediate and effective investigation into the abduction of Wanchalearm and to ascertain his fate and whereabouts. Protesters, including those belonging to youth groups, started wearing white ribbons as a way of calling for justice for Wanchalearm’s abduction. In the same month, protesters reiterated their demand for democratic rule during several public assemblies organized to mark the 24 June 1932 Siamese Revolution. Police pressed charges against both protest organizers and participants. They were charged with violating the ban on gatherings under the Emergency Decree, the Maintenance of Public Cleanliness and Orderliness Act, the Land Traffic Act and the Criminal Code.

In July 2020, the youth-led movement announced three demands: dissolution of parliament and fresh elections, a new constitution and an end to the harassment and prosecution of protesters and government critics.³⁰

On 1 July 2020, Thailand’s Center for COVID-19 Situation Administration (CCSA) lifted the night-time curfew that had been in place for several months.³¹ The ban on gatherings under Regulation 1 was revoked by the government at the end of the month, along with the ban on public assemblies under it, but the state of emergency was extended.³² However, restrictions to the exercise of the right to freedom of assembly remained in place under the Public Assembly Act. Limitations on any public gatherings also remain in Regulation 15 issued under the Emergency Decree.³³

These restrictions, however, did not deter or hamper the creativity of the youth movement in Thailand. In August, more and more people joined the protests, which took on different themes, such as Harry Potter and Fashion Runway. Several of those who took part in these protests were arrested, some repeatedly, on politically motivated grounds, including on the basis of provisions of the Emergency Decree of 2005.

The movement continued through October and mass protests were organized almost daily throughout Thailand. The youth groups made additional calls for constitutional oversight of the monarchy. In response, Thai authorities intensified their suppression of gatherings with more drastic emergency orders, an increase in the severity of criminal charges being brought against

²⁸ Amnesty International, *Thailand: Deadly crackdown Sees No Justice after Ten Years* (Index: ASA 39/2343/2020) <https://www.amnesty.org/en/documents/asa39/2343/2020/en/>

²⁹ Amnesty International, *Cambodia: Investigate whereabouts of missing Thai dissident* (Press release, 5 June 2020), <https://www.amnesty.org/en/latest/news/2020/06/cambodia-investigate-whereabouts-missing-thai-dissident/>, Amnesty International, *Cambodia: Fears of abduction for Thai activist in exile: Wanchalearm Satsaksit* (Index: ASA 23/2517/2020) <https://www.amnesty.org.uk/urgent-actions/fears-abduction-thai-activist-exile>, and *Cambodia: Probe into Thai exile’s enforced disappearance moving at snail’s pace, has glaring gaps* (Press release, 8 December 2020), <https://www.amnesty.org/en/latest/news/2020/12/cambodia-probe-thai-exile-snail-pace/>

³⁰ Amnesty International, *Open Letter Re: Policing of Peaceful Assemblies* (Index: ASA 39/2808/2020) <https://www.amnesty.org/en/documents/asa39/2808/2020/en/> and *Urgent Action: 31 Peaceful Protesters Face Imprisonment* (Index: ASA 39/2957/2020) <https://www.amnesty.org.uk/urgent-actions/31-peaceful-protesters-face-imprisonment#:~:text=Thai%20authorities%20issued%20arrest%20warrant,capital%2C%20on%2018%20July%202020.&text=If%20convicted%2C%20each%20activist%20could,to%20seven%20years%20in%20prison>.

³¹ Center for COVID-19 Situation Administration (CCAS), *Press conference on the COVID-19 situation by the CCSA (24 June 2020)*, 24 June 2020, <https://www.youtube.com/watch?v=gJvQ7p8iPO>

³² Regulation No.13 Issued under Section 9 of the Emergency Decree on 31 July 2020

³³ Clause 3 of Regulation No.15 Issued under Section 9 of the Emergency Decree on 25 December 2020

protesters and the deployment of less-lethal weapons (such as tear gas and water cannons) to disperse the assemblies in October and November.³⁴

On 15 October 2020, the prime minister declared a “serious emergency situation” in Bangkok under Sections 9 and 11 of the Emergency Decree of 2005, allegedly to “maintain the public order and public interest”.³⁵ He claimed that there were “reasons to believe the existence of violent acts affecting the security of the State, the safety of the lives or properties of the State or persons.”³⁶ He also claimed that the protests “undermine measures to curtail the epidemic.” This “serious emergency situation” was later revoked on 22 October 2020.³⁷

³⁴ Amnesty International, *Thailand: More arrests amid ‘drastic’ emergency order banning gatherings* (Press release, 15 October 2020), <https://www.amnesty.org/en/latest/news/2020/10/thailand-more-arrests-amid-drastic-order/>

³⁵ Declaration of a Serious Emergency Situation in the Area of Bangkok on 15 October 2020

³⁶ *Ibid.*

³⁷ The Emergency Decree on Public Administration in Emergency Situation B.E. 2548 (2005)

2. POLICING OF PUBLIC ASSEMBLIES

Despite continued interference, harassment and persecution by authorities, Thai activists pressed on until the end of the year 2020, and protests were continuing at the time this report was being finalized in 2021. Amnesty International observed and documented four incidents in which Thai police used force against the protesters during public assemblies in 2020. Thai authorities used excessive force and unlawfully used their batons against protesters on several occasions. They also used rubber bullets and water cannons combined with chemical irritants.

UNLAWFUL USE OF WATER CANNONS AND CHEMICAL IRRITANTS

“There was nowhere to escape... I saw so many tear gas canisters and grenades I couldn’t begin to count. Some landed in front of me.”

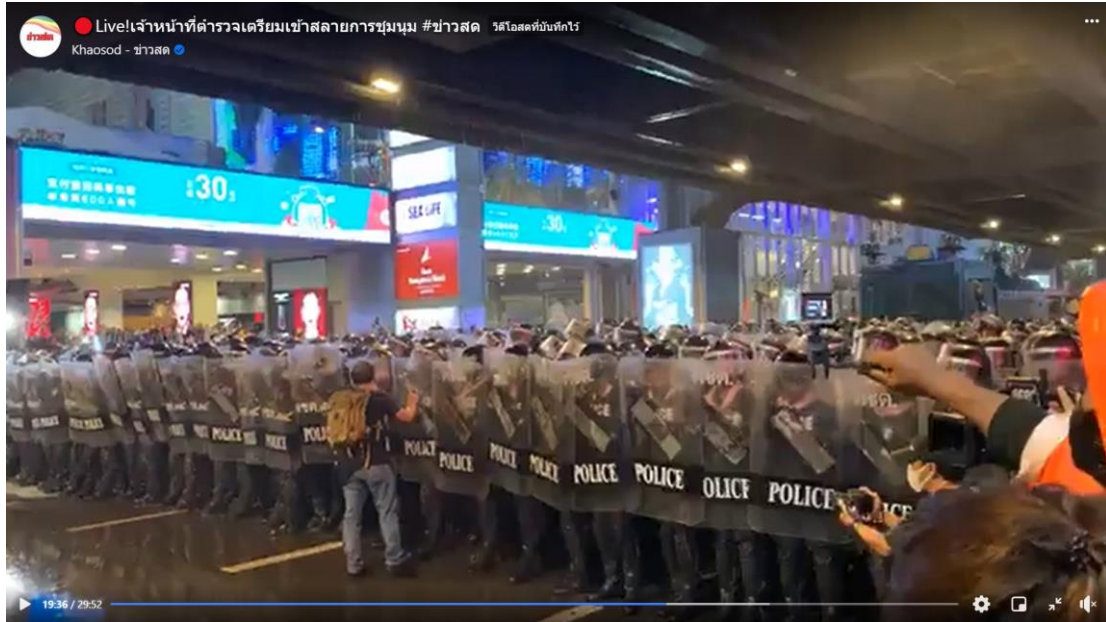
A 30-year-old volunteer, describing what he witnessed while stationed in front of the Boonrawd Brewery building on 17 November 2020.³⁸

Amnesty International documented the unlawful use of water cannons and chemical irritants against protesters by Thai police on 16 October 2020, 8 November 2020, 17 November 2020 and 28 February 2021. Police directly, or at times indiscriminately, fired these less-lethal weapons at protesters, protest guards (individuals who volunteer to keep protesters safe and peaceful), journalists and observers. These acts were unnecessary and disproportionate uses of force that violated domestic law and international human rights law.

³⁸ Telephone interview, January 2021

#16OCTGOTOPATHUMWANINTERSECTION

On 16 October 2020, thousands of protesters gathered on the streets around the Pathumwan Intersection in downtown Bangkok.³⁹ Protesters stood peacefully behind barricades that Thai police had set up across the street. They faced lines of riot police wearing tactical gear positioned 62 metres away. At around 6.30pm, police with shields marked “Border Patrol Police” and “34th Border Patrol Police Regional” began marching toward the crowd. Two unknown men started shouting at them and pushing against the officers’ shields. In response, the police warned protesters to fall back or else water cannons would be used against them. The protesters took heed of this warning and started falling back. There were no signs of violence from the protesters.

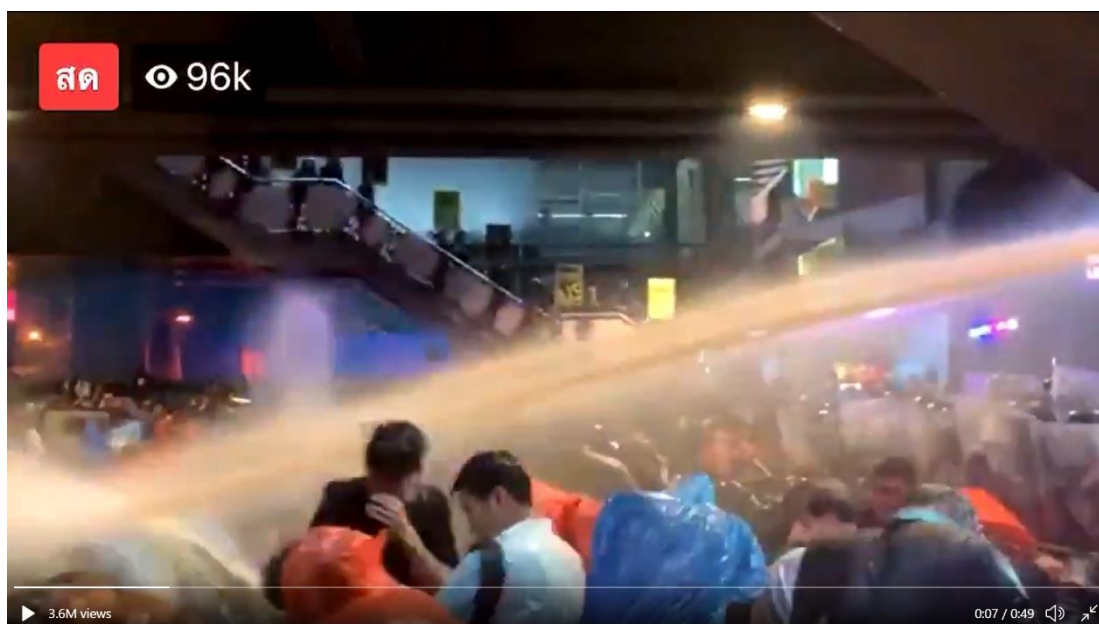


↑ A protester pushes back lines of police officers dressed in riot gear (16 October 2020). © Khaosod

At 6.37pm, police announced that they would be using the water cannon. Approximately three minutes later, around 6.40pm, a water cannon truck, stationed behind the lines of riot police, began firing both blue-coloured and clear water streams at about 500 peaceful protesters who were standing in the street. These protesters were flanked by fences and thus unable to escape the streams of water. Amnesty International considers the three minutes between the police announcement and the use of the water cannons to be insufficient for protesters to evacuate the area. Amnesty International also notes that the protesters could not leave the area because their exits were blocked by fencing.

Police with shields then marched towards the protesters, who were standing at the barricade line. From the side of the group of protesters, an unknown woman kept shouting “Please don’t hurt us!” from the crowd. Three water trucks directed jets of water at these protesters and at journalists standing nearby, even though the latter were wearing press armbands and located on the pavement. The jets of water continued to be discharged at high pressure and aimed at the protesters’ heads and upper bodies until the protesters broke the barricade line and headed toward the Pathumwan Intersection.

³⁹ The number of protesters in each demonstration is an estimated number of Amnesty International monitors. The number of participants varies among different media due to the difficulties of estimating large crowd in open areas where protesters move freely in and out of the protest.



↑ Police shoot water cannons at protesters. (16 October 2020) © Khaosod

Several more rounds of blue-coloured and clear water were discharged from the cannons to disperse protesters standing in the street and on an overhead walkway over the Pathumwan Intersection until around 11pm, when additional water trucks arrived at the scene. Officers requested that peaceful protesters vacate the area and warned: “Now the water jets are low-pressure, the pressure will keep increasing.”⁴⁰ Contrary to this claim, however, monitors observed that the water pressure was strong enough to knock people off from where they stood.

The monitors of Amnesty International who were present at the scene noted that water from the cannons vaporized upon contact with the ground and smelled acidic. The monitors also witnessed two riot police officers pouring approximately two gallons of brown liquid labelled “police” into the tank of one of the water trucks. Interviewees, including a volunteer protest guard, recounted experiencing “difficulty in breathing, burning sensation on [their] faces, itching and burning pain on their bodies and teary eyes” after coming into contact with both the clear and blue-coloured water jets.⁴¹

The 16 October 2020 protest occurred during the “serious state of emergency” that was declared the day before by the prime minister under Section 11 of the Emergency Decree.⁴² Prior to the protest, Police Major General Yingyot Thepjamnong, the police spokesperson, warned that “a political assembly... will lead to a serious situation that violates the law.”⁴³ His deputy, Police Colonel Kritsana Pattanacharoen, later stated: “[I]n order to maintain peace and order, the [serious] state of emergency joint operation would like to order the protesters to stop public gatherings... as of now. The authorities may need to strictly enforce the law in all dimensions if the protesters fail to comply with the order.”⁴⁴

⁴⁰ “#16OctGoToPathumwanIntersection”, *MobData*, <https://www.mobdatathailand.org/case-file/1602951730403/> (In Thai)

⁴¹ Telephone interview, January 2021

⁴² The Declaration of a Serious Emergency Situation in the Area of Bangkok on 15 October 2020 and The Revocation of a Serious Emergency Situation in the Area of Bangkok on 22 October 2020

⁴³ “CCAS press conference from the Royal Thai Police on 16 October 2020”, *NewsNBT Thailand*, 16 October 2020, <https://www.youtube.com/watch?v=LFyyEw4Pdql>

⁴⁴ *Ibid.*

#RATSADONSARN (PEOPLE'S MESSAGE)

On 8 November 2020, thousands of protesters peacefully marched from the Democracy Monument at Ratchadamnoen Avenue to the Royal Household Bureau at the Grand Palace in central Bangkok. The protesters planned to submit petitions calling for the monarchy to exercise power in accordance with the constitution and democratic rule. During the march, Police Colonel Sanong Saengmanee, superintendent of the Chanasongkram police station, announced from a vehicle equipped with speakers that the march was about to enter within the 150m radius of the Royal Court and would be in violation of the Public Assembly Act, which bans any protest within “a 150-metre radius of the Grand Palace, the Royal Palace, the Royal Residence of the Heir-Apparent or of His or Her Royal Highness Prince or Princess”.⁴⁵ Police Colonel Sanong Saengmanee then requested that the demonstrators retreat to the monument, where the march had begun.

The protesters pressed on, however, and reached the south end of the Supreme Court, where they faced a barricade of buses, barbed wire and concrete walls placed by the Thai authorities. Between the protesters and the royal court, where the Grand Palace sits, there were also hundreds of riot police wearing shields and helmets standing in lines in front of several water cannon trucks.

A group of protesters attempted to remove the barricades and were warned by the police not to do so or they would be violating the law. Monitors of Amnesty International did not observe any violent or harmful act committed by protesters. Piyarat Chongthep (known as “Toto”), a volunteer guard with WeVolunteer who was at the frontlines of the protest, explained that during negotiations between the police and the guards, “some protesters taunted the riot police, but no one threw anything at them”.⁴⁶ Amnesty International notes that “taunting” cannot be considered violence, as it does not involve the use of physical force against others that is likely to cause injury or death.⁴⁷

At 6.37pm, police aimed streams of clear water at high pressure from a water cannon between two buses. The jet of water was aimed over the barricades and indiscriminately hit protesters and journalists. Footage verified by Amnesty International suggested that the jets reached as far as approximately 140 metres from the trucks. Piyarat Chongthep recalled that protesters had not removed the barricades when the trucks fired the water cannon. He said: “The protesters went closer to the barbed wires. Police told them [through the loudspeakers] to withdraw. Some people did, some didn’t. It was an organic crowd. No loudspeakers, no leaders. Then the police fired the water cannons.”⁴⁸

Activists, guard volunteers and observers who witnessed the incident stated that police gave no warning before using the water cannon and only issued a warning after they had begun using it.⁴⁹ Police, however, claimed they “repeatedly warned” protesters not to breach the barricades.⁵⁰ Video footage examined by Amnesty International did not offer a firm conclusion but confirmed that the march was so loud that the authorities’ announcements would have been difficult to understand. International standards indicate that, when there is a legitimate ground for use of force, officers must always issue a clear and audible warning and give protesters time to comply with the order before deploying the use of force.⁵¹

⁴⁵ Section 7 of the Public Assembly Act

⁴⁶ Telephone interview, January 2021

⁴⁷ UN Human Rights Committee, General Comment 37, The Right of peaceful assembly (Article 21 of the ICCPR), UN Doc. CCPR/C/GC/R.37 (hereinafter: General Comment 37), para. 15


⁴⁸ Telephone interview, January 2021

⁴⁹ Telephone interviews, December 2020 and January 2021

⁵⁰ “21:00h Metropolitan Police Bureau Press Conference”, *Thai PBS*, 8 November 2020, https://www.facebook.com/watch/live/?v=2774894136163691&ref=watch_permalink&t=5

⁵¹ General Comment 37, para. 78



 ↑ Police shoot water cannons at protesters without audible warning. (8 November 2020) © Khaosod English

A 27-year-old activist who was at the front of the march recounted that many journalists and protesters sustained injuries from falling to the ground and had their possessions damaged: “People, especially journalists, couldn’t prepare themselves [for the coming water cannons] and were hit and knocked down. Their cameras were also hit. I saw my friend fall over when she was hit.”⁵²

After the incident, Metropolitan Police Chief Police Lieutenant General Pakapong Pongpetra apologized to the crowd through a loudspeaker. He said: “The intention [to use the water cannon] was to de-escalate the situation... [We were] afraid that there would be conflict that would cause danger.”⁵³ Angkhana Neelapajit, a former commissioner of the National Human Rights Commission of Thailand (NHRCT), recalled in an interview with Amnesty International: “The incident commander later apologized for firing water cannons and said it was an error, but he did not apologize at the press conference the following day.”⁵⁴

Police Colonel Kritsana Pattanacharoen, the deputy police spokesperson, stated at a post-protest press conference that the “protesters were trying to remove police barriers”. He also claimed that “the authorities tried to repeatedly inform the protesters that they were breaking the law and about to trespass into [a] restricted area [under the Public Assembly Act] and likely to cause damage to national treasure[s]”. He also alleged that the water cannon was used following repeated warnings by officers in order to mark the 150 metres distance from the Royal Court.⁵⁵ He also said that the protesters failed to inform authorities 24 hours in advance of the intended starting time of the protest.⁵⁶

#MOB17NOV #ICOMMANDYOUTOSTAYUNDERTHECONSTITUTION

On 17 November 2020, thousands of protesters peacefully gathered in Bangkok at the Kiakkai Intersection and in front of the Boonrawd Brewery building, both of which flank Samsen Road

⁵² Telephone interview, January 2021

⁵³ “18.47h police apologize to protesters (8 Nov 2020)”, *Thai PBS*, 8 November 2020, <https://www.youtube.com/watch?v=PkvsTOoDUHM>

⁵⁴ Telephone interview, January 2021

⁵⁵ “21:00h Metropolitan Police Bureau Press Conference”, *Thai PBS*, 8 November 2020, https://www.facebook.com/watch/live/?v=2774894136163691&ref=watch_permalink&t=5

⁵⁶ “[LIVE] 12.35h police hold press conference on evening protest (8 Nov 2020)”, *Thai PBS*, 8 November 2020, <https://www.youtube.com/watch?v=9KEWmcTBsWg>

where the Parliament House is located. The protesters called for reform of the monarchy and amendments to the constitution. Amnesty International monitors witnessed and documented how police unlawfully fired from water cannons both clear and purple-coloured water jets directly at peaceful protesters at a low-angle and short-distance, acts that were corroborated with verified footage.

In front of the Boonrawd Brewery building, south of the Parliament House, protesters were met with barricades positioned by Thai authorities, such as barbed wire, concrete walls and buses. There were also several lines of riot police wearing tactical gear, as well as two water trucks that blocked protesters from reaching the Parliament House.

Prior to the scheduled starting time of the demonstration, a few volunteer guards wearing armbands visibly identifying them as such, attempted to negotiate with the riot police to make way for protesters to walk to the front of the Parliament House. Piyarat Chongthep, one of the protesters' volunteer guards, explained that they could barely hear the shouting from the police because of the barricades positioned between them and the police. So, they attempted to move some of the barricades to make a pathway to be able to get close to the people to negotiate. He recounted: "When the volunteer guards touched the concrete wall, the [riot police] announced that they would use the water cannon. They then immediately started aiming streams of water from the water cannon at us. We weren't prepared for it."⁵⁷ A 64-year-old protest observer, who retreated about 10m away from the barriers recalled: "I was standing next to the [concrete barriers] when [the police] started firing the water cannons. I felt like I was going to be blown away [by the water cannon]. So, I ran away and ducked into a [small street] thinking there won't be [chemical] effects there but the chemical [irritants] vaporized off the ground."⁵⁸

At the Kiakkai Intersection, north of the Parliament House, approximately 1,000 protesters began gathering at 3pm and attempted to take down the concrete barriers and move the buses and police vans, as well as the barbed wire positioned around the intersection. The protesters also tried to negotiate and request that the police remove the barriers. In response, police announced that the protesters were about to cross within 50 metres of the Parliament House, in violation of the Public Assembly Act.⁵⁹



👁️ ↑ Police shoot water cannons with chemical irritants at protesters. (17 November 2020) © The Standard

⁵⁷ Telephone interview, January 2021


⁵⁸ Telephone interview, January 2021

⁵⁹ "#Mob17Nov: #ICommandYouToStayUnderTheConstitution", *MobData*, <https://www.mobdatathailand.org/case-file/1605628545558>

A number of interviewees who were at the protest described how the police authorities alternated between aiming high-pressure purple-coloured and clear water jets at the protesters and the volunteer guards, journalists and observers who stood both in the Kiakkai Intersection and in front of the Boonrawd Brewery building.⁶⁰ Most of the jets were aimed directly at protesters from approximately five to ten metres away, hitting their heads and upper and lower bodies and knocking them down. The crowd positioned in front of the Boonrawd Brewery experienced several bursts from water cannons, each lasting for a few minutes, at intervals of 10-20 minutes between 2pm and 7.30pm. The crowd positioned at the Kiakkai Intersection experienced less frequent bursts from the water cannons. However, the water was directed at them in a manner similar to the way it was used against the crowd in front of the Boonrawd Brewery. Some rounds of water were laced with chemical irritants or dye.

A 30-year-old protester who stood at the front of the crowd of protesters near the Boonrawd Brewery building recalled:

The police refilled the water trucks every hour. I saw they poured one metre tall containers of chemical irritants into the trucks. They didn't measure the substances before pouring them. There were no standards of measurement. It's like they just poured [it] in at their pleasure. I knew which round was mixed with a lot of chemicals because my skin felt extra burning and irritation. As the evening progressed, [we felt] the chemicals becoming stronger and stronger. I think there were many substances in there.⁶¹

 ↓ An officer filling a water truck tank with liquid alleged by witnesses interviewed by Amnesty International to be chemical irritants. © The Standard



A 28-year-old activist who stood near the front of the crowd of protesters at the Boonrawd Brewery building told Amnesty International: “The person standing near me was directly hit [by the high-pressure water cannon] and fell over, hitting [their] head on the ground and bleeding. [They] were later taken to a hospital and had three to four stitches.”⁶² One of the volunteer protest guards stationed in front of the concrete barriers recounted placing a hand-held speaker on the toppled concrete walls and saying to the authorities: “We aren't doing

⁶⁰ Telephone interviews, December 2020 and January 2021

⁶¹ Telephone interview, January 2021

⁶² Telephone interview, January 2021

anything, why are you firing water jets at us?”⁶³ Then he said: “An officer commanded through his speaker for the water truck to aim at the person with the speaker – me. My speaker was hit, and it broke to pieces.”

“There was nowhere to escape,” a volunteer protest guard said about the situation. “One side is a military area, the other is the Boonrawd [Brewery building]. I saw so many tear gas canisters and grenades I couldn’t begin to count. Some landed in front of me.”⁶⁴

Monitors of Amnesty International also witnessed and documented riot police firing and throwing tear gas canisters at peaceful protesters in both areas – at the Kiakkai Intersection and in front of the Boonrawd Brewery.⁶⁵ A significant number of canisters were found on the ground a few metres from police lines. There were times during that evening when the street in front of the Boonrawd building and the Kiakkai Intersection were filled with clouds of gas. Amnesty International could not estimate the total number of tear gas canisters launched during this incident, but its monitors witnessed and corroborated with footage and photographic evidence that there were more than 20.



An officer during the protest on 17 November 2020 carrying what is claimed by witnesses interviewed by Amnesty International to be a tear gas gun.

On 24 November 2020, at a press conference held by police authorities, Thanawut Trongwanichnam, representing JINO Motors, which sold the water cannon truck to the authorities,⁶⁶ claimed that “the truck is the same model as those used by the United Nations”.⁶⁷ He further explained that the truck has separate tanks for water, foam, CS (or 2-chlorobenzylidene malononitrile is micro-sized powder or pyrotechnically-generated CS particles that irritate the eyes, lungs, skin, and mucous membranes)⁶⁸ gas and dye. All additives could be added to the water at 3, 6 or 9% rates during the discharge, not in the tank. Amnesty International could not confirm the toxicity level of the water discharged by the

⁶³ Telephone interview, January 2021

⁶⁴ Telephone interview, January 2021

⁶⁵ “#Mob17Nov: #ICommandYouToStayUnderTheConstitution”, *MobData*, <https://www.mobdatathailand.org/case-file/1605628545558>

⁶⁶ “Police buy first anti-riot truck from S. Korea”, *Bangkok Post*, 30 March 2012, <https://www.bangkokpost.com/thailand/politics/286608/police-buy-first-anti-riot-truck-from-s-korea>. See also “JINO MOTORS – Company Introduction Video”, *JINO MOTORS*, 29 April 2020, <https://www.youtube.com/watch?v=opZwARN6nxk&t=107s>.

⁶⁷ “Police statement: laboratory results of chemical irritants used as crowd control agents not dangerous, in line with world standards”, *TERO NEWS*, 25 November 2020, https://www.youtube.com/watch?v=l_eomzDnz7M

⁶⁸ Amnesty International, *Teargas*, <http://teargas.amnesty.org/#how-it-works>

cannons on 17 November 2020 or whether the chemical substances were poured in a separate tank from the water.

Fifteen interviewees who were exposed to tear gas or hit by the water jets from the water cannons laced with chemical irritants on 17 November 2020 reported burning sensations in their nose, throat, lungs and face. They also reported difficulty in breathing and nasal blood discharge. Some reported developing rashes, redness, itching, irritation and feeling burning sensations on their skin. A 25-year-old protester who was hit by water cannons three times and inhaled the vapour from the ground recalled: “My nose was burning, my throat was burning, my lungs were burning.”⁶⁹

Amnesty International interviewed three individuals who were at the protest on 17 November 2020 at overlapping times. They said that riot police repeatedly announced through speakers mounted on a vehicle that the protesters were “causing violence” and “violating the law.” The police announced through the speakers for the protesters to “please stop causing chaos.”⁷⁰ Several other interviewees reported that, before the police used the water cannons, some protesters taunted, provoked or threw smoke bombs and plastic bottles in the direction of riot police. However, the majority of the protesters at both the Kiakkai Intersection and in front of the Boonrawd Brewery building were merely standing and trying to evade the water jets and tear gas canisters.

Angkhana Neelapaijit recounted that she initially thought that police would not use the water cannon that day “because there were not a lot of people there”. She said: “How could [the police] disperse the protest if the protest hasn’t even started yet? The protest was planned at 3pm. [The police] already started firing water jets at some time past 2pm.”⁷¹

Police Colonel Kritsana Pattanacharoen claimed that police used the water cannons and laced the liquid with chemical irritants “to warn the protesters and... to take control of the area”.⁷² He also claimed that the protesters violated the Public Assembly Act because they failed to submit a 24-hour notification to local authorities and gathered within 50 metres of the Parliament House.⁷³

Any protest within the premises of the Parliament House or within its 50 metre radius violates Section 7 of the Public Assembly Act.⁷⁴ Police Major General Yingyot Thepjamnong, a police spokesperson, claimed that police operations were undertaken to “maintain law and order.”⁷⁵

Furthermore, Police Colonel Kritsana claimed that “police vans were vandalized and valuable police properties were stolen.”⁷⁶ Protesters on 17 November 2020 allegedly occupied buses at the Kiakkai Intersection and left graffiti on police vans and buses. Footage and photographs verified by Amnesty International also showed vehicle windows shattered or cracked, including those of abandoned water trucks and a Border Patrol Police bus, as well as vandalized police vans and buses.⁷⁷

⁶⁹ Telephone interview, December 2020

⁷⁰ Telephone interviews, December 2020 and January 2021

⁷¹ Telephone interview, January 2021

⁷² “[LIVE] 11.10 am police’s press conference on the public assembly (18 Nov 20)”, *Voice TV* and “Police argue water cannon mixed with chemical irritants #Mob27November”, *Thai PBS*

⁷³ “Police argue water cannon mixed with chemical irritants #Mob27November”, *Thai PBS*

⁷⁴ Section 7 of the Public Assembly Act

⁷⁵ “[LIVE] 11.10 am police’s press conference on the public assembly (18 Nov 20)”, *Voice TV*

⁷⁶ *Ibid.*

⁷⁷ “Police check crowd control trucks following damage from 17 November”, *The Standard*, 18 November 2020, <https://thestandard.co/police-check-up-water-gun-car/> and “Mob meets mob in front of parliament, shooting heard at Kiakkai intersection”, *Thairath*, 18 November 2020, <https://www.thairath.co.th/news/politic/1978580>

👁️ ↓ Police van alleged to be vandalized by protesters during the protest on 17 November 2020.



Amnesty International found that this damage to police property occurred *after* the initial use of the water cannon, around 3pm, when protesters were peacefully gathered and merely attempting to remove the barricades. Such circumstances do not pose a threat significant enough for police to establish grounds to deploy force. Moreover, this finding suggests that unnecessary and disproportionate use of force by police has most probably escalated tensions and, in some instances, may have actually contributed to violence.

#MOB28FEB #MOBWITHOUTLEADERS

On 28 February 2021, more than 2,000 protesters under the name of the leaderless movement Restart Democracy (REDEM) gathered at the Victory Monument in Bangkok. At around 4pm, they started marching towards the 1st Infantry Battalion, King's Bodyguard Regiment, where Prime Minister Prayuth Chan-O-Cha resides. The main purpose of the protest was to call for the prime minister's resignation, but there were some protesters who were calling for democracy and justice in Myanmar.

In front of the Battalion base, protesters were met with an approximately 600 metre-long barricade composed of barbed wire and shipping containers placed there by Thai police. There were also approximately 100 riot police officers dressed in tactical gear and blocking the entrances of the Battalion base. Most of them were from the Border Control Police, who were identifiable by the pink scarves they were wearing. Two water cannon trucks were stationed in front of the PTT petrol station at the north end of the Battalion base. About 100 plainclothes officers in white safety helmets were stationed behind the trucks. These plainclothes officers later moved inside the Royal Thai Army Club, located north-east of the Battalion base in another part of Bangkok.

Around 6.15pm, the protesters started to move aside the shipping containers. Riot police and water cannon trucks then advanced from the Veterans General Hospital, which is south-west of the Battalion base's south entrance, and the Royal Thai Army Club.

Around 6.40pm, police requested the protesters to disperse. The police said that the protesters were not allowed to gather there because the 1st Infantry Battalion is under the direct command of King Rama X and therefore considered a royal court. Amnesty International

monitors witnessed police shooting water cannons and tear gas canisters at protesters in front of the Veterans' General Hospital.

Around 8.10pm, about 100 metres from the north entrance of the base, protesters started pushing and kicking police officers with shields. The protesters were attempting to breach the barricade. Some protesters threw plastic and glass bottles at the police, while the police retreated and announced that they will use the water cannons.

Around 8.19pm, riot police fired water cannons, hitting protesters' upper and lower bodies from a distance of four metres. Riot police also fired tear gas canisters and smoke bombs at the protesters. The water emitted fumes as it was being sprayed, and a CS smoke grenade was later found at the area. Amnesty International could not find evidence of attempts on the part of police to negotiate with protesters prior to the use of water cannons, tear gas and smoke bombs.



 ↑ Tear gas seen in the air after protesters dispersed on 28 February 2021. © Thai Enquirer

Following the protest, Police Colonel Kritsana Pattanacharoen confirmed that tear gas was used to disperse the protesters for violating the Emergency Decree.⁷⁸ He further alleged that protesters in the 28 February 2021 public assembly violated the blanket prohibition on assemblies under Regulation 15, which was enacted on 25 December 2020, and remains in effect to date.

EFFECTS OF CHEMICAL IRRITANTS

“Police said they didn’t want to do it. It was an order. But if you don’t even have conscience, you’ve already lost your humanity.”

A 24-year-old observer who became unconscious after inhaling tear gas.

⁷⁸ “Confirm the use of tear gas-rubber bullets. 16 police officers injured. 22 protesters captured”, *Thai PBS*, 28 February 2021, <https://news.thaipbs.or.th/content/301950>

On 9 November 2020, Police Lieutenant Colonel Chawalit Rhunsiri confirmed to the parliamentary Standing Committee on Democracy and Human Rights that the water used in the water cannons during the 16 October 2020 protest was laced with Methyl Violet 2B (dye) and tear gas.⁷⁹ At the time of the writing of this report, no account had yet confirmed the chemical composition of the water and tear gas used on 8 and 17 November 2020.

Based on the accounts of eyewitnesses and victims who sustained injuries after being exposed to chemical irritants, Amnesty International is gravely concerned about the amount of chemical substances added to the water in the water cannons used by police on 16 October and 17 November 2020. The mixing of chemical irritants with water to use in the cannons is highly problematic because of how these chemicals can cause lasting harmful health impacts. These chemical irritants stick on clothing and exposure to them became prolonged because protesters were unable to remove their clothing immediately.

At least 18 interviewees reported having either sustained or witnessed others who sustained injuries from being hit by water cannons or inhaling the chemical substances added to the water in the cannons. Some also sustained injuries from the chemicals released from tear gas canisters or that had vaporized from the wet ground. Victims who came into contact with tear gas or got hit by water from the cannons reported experiencing coughing, skin and eye irritation and redness, chemical burns, breathing difficulties, burning sensations in the nose, lungs and skin, and bloody nasal discharge.

A volunteer guard who stood at the front of the protesters on 17 November 2020 described his injuries after enduring several hours of being hit by the water cannon and exposed to tear gas:

The skin around my thighs, on the sides of my torso and my underarms had blisters. My calves had [what looked like] calluses. My whole body was red, and I felt like a burn victim. I felt fatigued. I was drenched all over. I was rankled, pained. I was so battered, and I was numb with pain. The next morning, my whole body was red with rashes. The rashes were from an allergy [to the chemical substances]. I felt like my skin was going to peel off. I flipped the red skin on my arm, the skin peeled off.⁸⁰

A 64-year-old woman who was hit by the water cannons while observing the protest on 17 November recounted her symptoms: “My eyes were burning and swollen and teary. I could not open my eyes. My nose was burning. I felt the burning sensation in my forehead. My lungs were also burning. Shortly after the protest, I started to have bloody nasal discharge.”⁸¹

A 24-year-old observer who was standing near the concrete barriers saw tear gas canisters landing in front of her. She recalled her experience:

I didn't know what it was, I've never seen one before. I first thought it was a smoke bomb. When the first canister landed near me, I just felt a burning sensation on my face. I felt like my face was burned with fire and I couldn't breathe. I breathed through my nose, but the gas went to my brain. When I breathed through my mouth the gas went to my lungs. I coughed a lot. My eyes were teary. The next [tear gas canister] landed in front of me and I inhaled [the gas from it] a lot. The gas mask didn't help at all. I was knocked out. I became conscious later at the hospital. I got a shot to help with the nausea.⁸²

⁷⁹ “Police admit to mixing “tear gas” to disperse #16Oct mob”, *Thai PBS*, 9 November, <https://news.thaipbs.or.th/content/298183>

⁸⁰ Telephone interview, January 2021

⁸¹ Telephone interview, January 2021

⁸² Telephone interview, January 2021

Amnesty International considers a liquid that causes burns to exceed the acceptable level of toxicity. Any chemical irritant should only cause short-term irritation that vanishes quickly once exposure ends and not leave lasting burns.

Given the unpredictable nature of chemical irritants, both when mixed with water fired from water cannons and launched at a distance (such as tear gas), they must be deployed only when there is widespread violence that authorities are unable to contain by other means. No such violence was present in any of the instances described above. There was no absolute necessity for authorities to even resort to this type of force. Hence, the use of tear gas by Thai authorities during the events discussed above was unlawful.

EXCESSIVE USE OF FORCE AGAINST PROTESTERS AND UNLAWFUL USE OF BATONS BY POLICE

“I told them I surrender. Please don’t hurt me. I’m done. They didn’t listen to me. They used batons to beat me up all over until a plain-clothes officer came and said, ‘The order was to capture not beat up [protesters].’ That was not an arrest. That was battery.”

A 16-year-old protester who was beaten by riot police when he joined the protest on 28 February 2021.

Amnesty International documented and verified footage of unnecessary and disproportionate use of force by riot police against protesters on 28 February 2021, including use of batons.

Around 6.30pm, protesters set up two lines of traffic barricades, 100m apart, at the north entrance of the base of the 1st Infantry Battalion, King’s Bodyguard Regiment. The protesters set up these barricades to create distance between themselves and the riot police. A 21-year-old protester claimed that the police said they would not deploy force. He said that the crowd-control police had announced: “We won’t do anything to you. We won’t use violence.”⁸³ He further said: “The commander [of the riot police] just told them to advance. Then the crowd control police advanced with shields and started arresting protesters.”

He recalled the violence that followed:

I saw a [17-year-old] boy who couldn’t escape in time. A police officer wearing a beret captured him and passed him to another police officer wearing body armour. The crowd control police kicked his stomach with combat boots. They pulled [the boy]’s arm and kicked his stomach so he fell. Then they kicked his chest. He was then surrounded by a group of riot police. They beat him really badly. No one could help him. They used batons and the edges of their shields on his stomach. They later tied his hands with cable ties.⁸⁴

A 16-year-old activist recounted being beaten up by the riot police shortly after he arrived at the protest around 9pm: “I was caught by [about 10] riot police officers. They beat me up

⁸³ Telephone interview, February 2021

⁸⁴ Telephone interview, February 2021

with batons and shields. They kicked me with their combat boots. All over my body. From head to toe. I was beaten up.”⁸⁵

He said the police did not stop the attack even after they had restrained him:

[One of] the riot police pressed my head and back to the ground with his leg. They tied my hands behind my back with cable ties. After that, they kept kicking me and beating me with batons. They used batons to beat me all over my body, my neck, my limbs, my head, my back... until a plain-clothes officer came and said: ‘The order was to capture, not beat up [protesters].’ They used their combat boots to kick me and kept asking: ‘Why are you hurting my friends? Where are your friends? I told you to go home, why didn’t you?’ I told them I surrendered; I was going to go home. Please don’t hurt me. I’m done... They didn’t listen to me. It’s like they were lost in another [mental] space. They only wanted to keep beating me. That was not an arrest. That was battery.⁸⁶

An observer of Amnesty International witnessed a group of around eight riot police officers using force to capture a protester, aged 17, from the restroom at the Shell petrol station nearby. A police officer pressed his knee on the protester’s neck as he tied his hands.

👁️ ↓ A police officer pressing his knee on a protester’s neck during arrest on 28 February 2021. © Kan Sangtong



PREVENTION OF VIOLENCE AGAINST PROTESTERS BY THIRD PARTIES

Amnesty International gathered and verified footage of how police acted when conflicts arose between protesters and third parties.

On 17 November 2020, the youth-led Ratsadon movement and counter-protesters from the royalist Thai Pakdee (Loyal Thai) group separately scheduled different gatherings at the Parliament House in Bangkok.

⁸⁵ Telephone interview, February 2021

⁸⁶ Telephone interview, February 2021

Verified footage showed that, at around 5pm, the Ratsadon protesters breached the barricades set up by police authorities and reached the Kiakkai Intersection. At that moment, one of the two water trucks deployed by riot police to shoot water cannons at protesters rammed through remaining barricades that separated the two groups of demonstrators. Thereafter, the Thai Pakdee group ran towards the Ratsadon protesters, and both groups began throwing objects at each other.

Three individuals interviewed by Amnesty International recalled this confrontation between the two groups of protesters.⁸⁷ A 32-year-old volunteer protest guard from Gear of Democracy, the volunteer guards for pro-democracy protesters, recounted the incident: “Some people in yellow shirts [from the Thai Pakdee group] threw stones, [glass] M-150 [an energy drink] bottles and other items at us. A few people in the front carried weapons, such as knives and sticks.”⁸⁸ Verified footage of the incident showed chairs, traffic cones and sticks being thrown by the Thai Pakdee group at the Ratsadon protesters.⁸⁹ Verified footage also showed that a group of Ratsadon protesters likewise threw bottles and stones at the Thai Pakdee protesters while the volunteer guards were requesting them to stop.

No police officers were present at that time, although the dispute occurred less than 20 metres from where riot police had initially positioned themselves. When the melee started, though, the riot police had already left that position. The two groups ultimately resolved the conflict by themselves. Amnesty International considers the absence of police a failure to protect and ensure the safety of the protesters.

The police water truck ramming the barricade also posed a serious threat to the safety of protesters and counter-protesters nearby. Amnesty International considers this action to have endangered the lives of protesters and bystanders and further exposed protesters to third-party violence.

An interviewee recounted another incident at the Kiakkai Intersection on 17 November 2020 in which he sustained injury:

Around 7pm, there were [hand-held tear gas canisters] thrown and some shots fired at us. There was [a] confrontation between us and a group of yellow-shirted people... We couldn't move closer to them because they kept firing at us. I realized later I was hit because there was blood running down my leg. I saw that another [volunteer] guard got shot. When I heard the gunshots, our people started to fall on the ground. There were shots fired from different directions.⁹⁰

Amnesty International verified the medical forensic report of the case above from a hospital in Bangkok. The report stated that the individual suffered from “a gunshot wound of about 1 cm diameter on the left thigh” and “a brass-coloured metal covered fragment was found in the wound”.⁹¹ Amnesty International could not verify the perpetrator(s) of this incident.

An Amnesty International monitor who was at the Kiakkai Intersection at the time confirmed hearing approximately 10 shots fired from a weapon, followed by approximately six shots fired from another weapon. A reporter with Thairath TV, a local media outlet, reported that a bullet cartridge was found at the Kiakkai Intersection at 8pm.⁹²

The interviewee said: “I called a local police officer [wearing a khaki uniform different from the riot police deployed at the time] when the confrontation [between the different groups of protesters] were happening. But the police didn't stop the violence.”⁹³

⁸⁷ Telephone interviews, November and December 2020

⁸⁸ Telephone interview, November 2020

⁸⁹ “Yellow shirts meet Ratsadon group, items thrown”, *NEWS18*, 17 November 2020, <https://www.youtube.com/watch?v=cFT62qi3MkA>

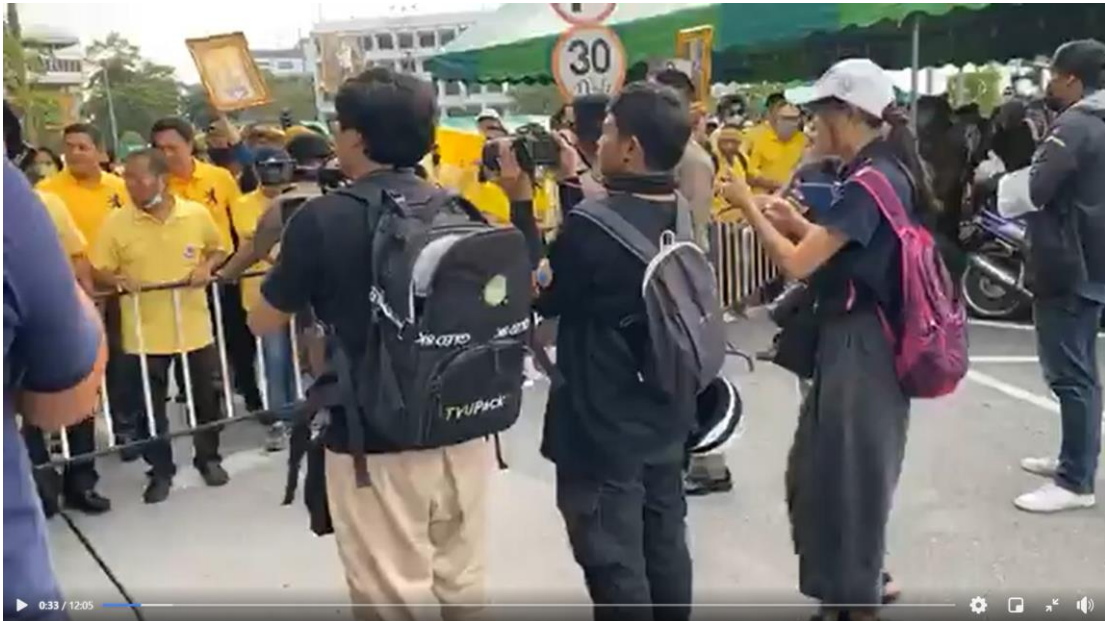
⁹⁰ Telephone interview, November 2020


⁹¹ Medical examination and forensic report, 18 November 2020

⁹² “Taking injured people from the confrontation point, protesters handed a bullet shell to journalist”, *Thairath*, 17 November 2020, <https://www.thairath.co.th/news/politic/1978631>

⁹³ Telephone interview, November 2020

Amnesty International notes that on other occasions, Thai police have been able to prevent clashes between protesters and counter-protesters. On 21 October 2020 at Ramkhamhaeng University in Bangkok, police officers quickly responded and quelled potential violence between two groups of protesters by distancing them from each other. During this incident, almost 100 members of the Network for the Protection of the Monarchy (known as “yellow shirts”) gathered at the King Ramkhamhaeng Courtyard, while dozens of Ratsadon protectors were grouped in front of the Dean’s Office. Yellow-shirted protesters removed barricades and marched toward the group of Ratsadon protesters, taunting them by shouting, “Leave, leave, leave.” A traffic cone and a speaker were thrown by yellow-shirted protesters at Ratsadon protesters. Local police immediately positioned barricades to separate both groups, keeping them at least 100m apart so that each group could peacefully continue its public assembly.



 ↑ Barricades placed by police to separate two groups of protesters on 17 November 2020. © E-Jan Facebook

UNLAWFUL USE OF RUBBER BULLETS

Amnesty International also documented the use of kinetic impact projectiles such as rubber bullets against volunteer protest guards by riot police.

A volunteer guard stated that, on 17 November 2020, riot police shot what he thought to be rubber bullets at him and his friend: “I heard a loud bang near me. [My friend] cried out and fell. I think I got shot because I was looking for the rubber bullet [fired at my friend]. I was shot in my left calf. Bang. Then I fell.”⁹⁴


Amnesty International could not ascertain whether rubber bullets were used by riot police on 17 November 2020. Monitors of Amnesty International only witnessed the police issuing a warning that they will use rubber bullets, and this was corroborated by verified footage of the incident. However, the organization has been unable to determine conclusively whether or not shots were indeed fired. Police Colonel Kritsana Pattanacharoen stated during a press conference that “no rubber or live bullets were used during... police operations [on 17 November].”⁹⁵

⁹⁴ Telephone interview, January 2021

⁹⁵ “[LIVE] 11.10 am police’s press conference on the public assembly (18 Nov 20)”, *Voice TV*

On 28 February 2021, Amnesty International monitors witnessed and documented rubber bullets being fired by riot police in tactical gear. The use of rubber bullets was corroborated by media reports and more than 20 casings and rubber bullets were recovered from the protest site by media, observers, protesters and Amnesty International monitors.



 ↑ Riot police shooting rubber bullets at a crowd of protesters on 28 February 2021. © Kan Santong

A 33-year-old observer, who stood at the front of the crowd of protesters, recalled the police advancing towards them and firing rubber bullets at around 9pm: “The riot police put up their shields and started charging towards the protesters. They fired short guns and said they were using rubber bullets. They aimed and fired at any protester who seemed potentially violent, in a group, or who might throw items at them.”⁹⁶

Amnesty International also documented the testimonies of peaceful protesters who sustained injuries or witnessed peaceful protesters who sustained injuries from rubber bullets. A 21-year-old protester recalled seeing a truck full of police officers wearing the insignia of the Arintaraj Unit, a police tactical unit. They arrived at the protest site after 8pm, armed with launchers: “I heard the firing of many guns. It was very loud from where I was standing (around the PTT petrol station). The sound of gunfire didn’t stop, so everybody was crouched down on the ground. Someone crouched in front of me was shot. The [police] stopped firing for a few minutes, then they started firing again. I saw another person who was hit at his calf. My friends also collected three to four rubber bullets and a rubber bullet casting.”⁹⁷

A 16-year-old protester recounted being hit by rubber bullets as he stood in the vicinity of the Shell petrol station, across the main road from the 1st Infantry Battalion base, shortly after he joined the already dispersing protest at around 9pm: “I heard the riot police were ordered to advance through the barricades to where we were. Then I heard an order to send in the arrest and apprehension unit. They ran to the petrol station area. The other protesters and I started to run away. I was helping a woman in front of me get up when a rubber bullet hit my waist. Then three to four [rubber bullets] hit my calves.”⁹⁸

⁹⁶ Telephone interview, February 2021

⁹⁷ Telephone interview, February 2021

⁹⁸ Telephone interview, February 2021



👁️ ↑ Injury on a young protester's body after being hit by a rubber bullet.

Kinetic impact projectiles, such as rubber bullets, should be used only “in direct fire with the aim of striking the lower abdomen or legs of a violent individual and only with a view to addressing an imminent threat of injury to either a law enforcement official or a member of the public”.⁹⁹ These types of weapons can cause serious injuries, in particular if the point of impact is the face, head or upper torso.

An Amnesty International observer stated that, earlier on the evening of 28 February 2021, some protesters were throwing plastic and glass bottles, traffic cones and stones at riot police. An independent observer said the police made no effort to remove or isolate individuals who threw items at them. He said: “I understand that some protesters were throwing items at them, including glass bottles, but there was no officer trying to manage persons who threw these items.”¹⁰⁰

Amnesty International documented police firing randomly at peaceful protesters during the incident on 28 February 2021, even as some of these protesters were already fleeing the protest site. There was no case of violence or potential violence from 8pm to 9pm, and there was thus no reason for authorities to use rubber bullets. Amnesty International considers the use of rubber bullets on this occasion to have been disproportionate, unnecessary and unjustifiable.

LACK OF VISIBLE IDENTIFICATION OF LAW ENFORCEMENT OFFICIALS

In numerous videos verified by Amnesty International, and based on accounts of the organization’s monitors present at the scene of the four protests described in this report, the riot police deployed and armed with tactical gear at these protests wore no visible signs of identification. While some shields were marked “Border Patrol Police” and uniforms displayed an insignia of “Crowd Control Police”, most of the riot police deployed to disperse these protests did not display any visible tags with either the individual officer’s name or an identification number. Non-riot police routinely wear uniforms with name tags. However, this identification is no longer visible when they wear bullet proof vests over their uniforms.

⁹⁹ Guidance on Less-Lethal Weapons, para. 7.5.2

¹⁰⁰ Telephone interview, February 2021

Under international human rights law and standards, states should develop and encourage a culture of accountability among law enforcement officials during the policing of protests, and law enforcement officials interacting with the public should be individually identifiable through name or personal number tags to ensure full accountability of officers for their actions.¹⁰¹

¹⁰¹ General Comment 37, para. 89

3. LEGAL FRAMEWORK

THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY

Under international law, states are legally obligated to respect, protect and facilitate without discrimination non-violent public gatherings in all forms, including demonstrations, marches and “flash mobs”. The right to freedom of peaceful assembly is enshrined in Article 21 of the International Covenant on Civil and Political Rights (ICCPR),¹⁰² which Thailand ratified in 1996.¹⁰³ This right is also guaranteed under the Constitution of the Kingdom of Thailand.¹⁰⁴

The right to freedom of peaceful assembly serves many purposes. It is one of the means by which people can express their views and draw attention to matters of public interest. It is important in effecting change in society and is also a way for people to celebrate and commemorate. Hence, together with the right to freedom of expression and other rights, it is a necessary element to the foundation of an inclusive, participatory society based on human rights and the rule of law.¹⁰⁵ The right to freedom of peaceful assembly is of fundamental importance for the personal development, dignity and fulfilment of every individual and for the progress and welfare of society.

THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY

The right to freedom of peaceful assembly is not absolute and may be subject to restrictions. These restrictions must be: (a) prescribed by law, (b) imposed only in the interests of protecting national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others, and (c) necessary and proportionate.¹⁰⁶ These restrictions may not be used “explicitly or implicitly, to stifle expression of political opposition to a government, challenges to authority, including calls for democratic changes of government, the constitution or the political system, or the pursuit of self-determination”.¹⁰⁷ Blanket restrictions, such as the ban on gatherings altogether, are “presumptively disproportionate” as assemblies should be allowed to voice their messages within sight and sound of their target audience.¹⁰⁸

The UN Human Rights Committee has provided the following guidance on the grounds that can be invoked to restrict the right to peaceful assembly:

¹⁰² Article 21 of International Covenant on Civil and Political Rights (ICCPR)

¹⁰³ UNOHCHR, “UN Treaty Body Database: Thailand”,

https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=THA&Lang=EN

¹⁰⁴ Sections 4, 26, 28 and 63 of the Constitution of the Kingdom of Thailand

¹⁰⁵ General Comment 37, para. 1

¹⁰⁶ General Comment 37, para. 36, 39 and 40

¹⁰⁷ General Comment 37, para. 49

¹⁰⁸ General Comment 37, paras. 26, 38 and 53

- National security “may serve as a ground for restrictions if such restrictions are necessary to preserve the State’s capacity to protect the existence of the nation, its territorial integrity or political independence against a credible threat or use of force”.¹⁰⁹ Any restrictions placed must be justified by “genuine purpose and demonstrable effect” to protect the country’s “existence and territorial integrity”.¹¹⁰
- Public safety can be invoked as a justifiable ground for restriction only when “the assembly creates a real and significant risk to the safety of persons... or a similar risk of serious damage to property”.¹¹¹
- Public order is defined as “the sum of the rules that ensure the proper functioning of society, or the set of fundamental principles on which society is founded, which also entails respect for human rights”. States must not “rely on a vague definition of ‘public order’ to justify overbroad restrictions on the right of peaceful assembly”. Importantly, peaceful protests can “be inherently or deliberately disruptive and require a significant degree of toleration”,¹¹² and rights of protesters therefore must be protected.
- Restrictions on grounds of public health may be imposed when “there is an outbreak of an infectious disease and gatherings are dangerous... [or] where the sanitary situation during an assembly presents a substantial health risk to the general public or to the participants themselves”.¹¹³
- Any restriction on the basis of public morals “must be understood in the light of the universality of human rights, pluralism and the principle of non-discrimination”.¹¹⁴ Restrictions based on this ground, for example, must not be placed because of the opposition to expressions of political opinions or association.
- The rights and freedoms of others refer to human rights under the ICCPR of people not participating in peaceful assemblies. However, “assemblies are a legitimate use of public and other spaces, and since they may entail by their very nature a certain level of disruption to ordinary life, such disruptions must be accommodated, unless they impose a disproportionate burden, in which case the authorities must be able to provide detailed justification for any restrictions”.¹¹⁵

Any restrictions must be clearly and narrowly defined in domestic law. The law itself must be sufficiently precise to enable individuals to assess whether or not their conduct would be in breach of the law and also to foresee the likely consequences of any such breach. Domestic law must also be consistent with a state’s obligations under international human rights law. Any restrictions implemented pursuant to a legitimate aim and national law must also be the least restrictive means to achieve the aim, as well as be strictly proportionate to achieve the stated aim. In other words: “[It must involve] a value assessment, weighing the nature and detrimental impact of the interference on the exercise of the right against the resultant benefit to one of the grounds for interfering. If the detriment outweighs the benefit, the restriction is disproportionate and thus not permissible.”¹¹⁶

Authorities must first allow and facilitate protests and evaluate the risk posed, instead of pre-emptively placing restrictions due to potential risks.¹¹⁷ If restrictions are imposed, authorities must take the least intrusive measures possible.

¹⁰⁹ General Comment 37, para. 42

¹¹⁰ Principle 6 of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information

¹¹¹ General Comment 37, para. 43

¹¹² General Comment 37, para. 44

¹¹³ General Comment 37, para. 45

¹¹⁴ General Comment 37, para. 46

¹¹⁵ General Comment 37, para. 47

¹¹⁶ General Comment 37, para. 40

¹¹⁷ General Comment 37, para. 37

In times of genuine public emergency, states can also temporarily suspend certain international human rights duties pertaining to the right to freedom of peaceful assembly. This practice is known as a “derogation”. The right to peaceful assembly can be derogated only in exceptional circumstances.¹¹⁸ In doing so, states must meet three strict requirements:

- The situation must constitute a threat to the life of the nation. (Not every disturbance amounts to a public emergency fundamental to invoking derogations.)
- There must be an official proclamation of a state of emergency (which in nature must be exceptional and temporary and which provides a legal basis to restrict human rights).¹¹⁹
- Derogating measures must be necessary and proportionate to the exigencies of the situation.¹²⁰

Some rights cannot be derogated, such as the right to life and to be free from torture and other ill-treatment. In addition, governments must communicate the derogation to the UN Secretary-General.¹²¹ Governments must never invoke derogations if restrictions could be imposed to achieve their lawful objectives.¹²²

THAILAND’S OBLIGATIONS TO PROTECT AND FACILITATE PEACEFUL ASSEMBLIES

Under international human rights law, there is a presumption in favour of holding assemblies. The right to freedom of peaceful assemblies should therefore be enjoyed without regulation so far as possible. According to the UN Human Rights Committee, the body responsible for monitoring compliance with the ICCPR and interpreting its provisions, law enforcement authorities must protect and facilitate non-violent protesters and counter-protesters, each in their own right, to voice their messages with minimized disruption or intervention from state authorities or third parties.¹²³ Whether gatherings are planned in advance or held spontaneously, measures deployed must be based on the legal “presumption in favour of considering assemblies to be peaceful”;¹²⁴ the mere possibility of violence or hostility from protesters or third parties is never sufficient to prohibit or restrict assemblies.¹²⁵

Authorities are also responsible for the facilitation of activities associated with protests, namely “mobilization of resources; planning; dissemination of information about an upcoming event; preparation for and travelling to the event; communication between participants leading up to and during the assembly; broadcasting of or from the assembly; and leaving the assembly afterwards”.¹²⁶ For example, states “may need to block off streets, redirect traffic or provide security” to ensure demonstrators carry out their intended objectives.¹²⁷ The authorities must also “[establish] channels for communications and dialogue between the various parties involved” in protests.¹²⁸

The UN Human Rights Committee, in its concluding observations on the second periodic report of Thailand in 2017, advised the Thai government to “effectively guarantee and protect the freedom of peaceful assembly” and “refrain from imposing detention on individuals who are exercising their rights and who do not present a serious risk to national security or public safety”.¹²⁹ During the second Universal Periodic Review of Thailand’s human rights record at the UN Human Rights Council in 2016, the Thai government also accepted recommendations

¹¹⁸ Article 4 of ICCPR

¹¹⁹ UN Human Rights Committee, General Comment 29, States of Emergency (Article 4 of the ICCPR), UN Doc. CCPR/C/21/Rev.1/Add.11, para. 2

¹²⁰ General Comment 37, para. 96

¹²¹ Article 4 of the ICCPR

¹²² General Comment 37, para. 96

¹²³ General Comment 37, paras. 24 and 74

¹²⁴ General Comment 37, paras. 14, 17 and 26

¹²⁵ General Comment 37, paras. 27 and 52

¹²⁶ General Comment 37, para. 33

¹²⁷ General Comment 37, para. 24

¹²⁸ General Comment 37, para. 75

¹²⁹ Concluding Observations of UN Human Rights Committee: Thailand, UN Doc. CCPR/C/THA/CO/2, para. 40

regarding the right to peaceful assembly, including to “guarantee the rights to freedom of expression and assembly and ensure an inclusive debate among all stakeholders with regard to the upcoming referendum and the enactment of a new constitution”.¹³⁰

DOMESTIC LEGAL FRAMEWORK AND GUIDELINES

Thai authorities invoked different domestic laws to unduly restrict the right to freedom of peaceful assembly during the incidents examined in this report. Hence, the rationale given by police authorities for limiting the incidents vary. From 26 March to 31 July 2020, authorities invoked the ban on protests imposed by Regulation 1 under the Emergency Decree.¹³¹ From 1 August to 15 October 2020, authorities invoked the ban on protests under the Public Assembly Act adopted in 2015. From 15 to 22 October 2020, the authorities invoked the ban on protests under regulations issued on the basis of the “serious state of emergency” declared by the prime minister on 15 October 2020. From 22 October to 24 December 2020, the ban under the Public Assembly Act was invoked again.

PUBLIC ASSEMBLY ACT

The Public Assembly Act recognizes that the rights of participants of public assemblies are under the scope of the Constitution of the Kingdom of Thailand.¹³² Section 6 of the Act provides that “public assembly shall be in peaceful manner and without arms”. Its provisions, however, make clear that this law is meant to unduly limit the right to freedom of peaceful assembly.

RESTRICTIONS ON THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY

According to the law, any assembly is “illegal” if it:

- Is held within “a 150-metre radius of the Grand Palace, the Royal Palace, the Royal Residence of the Heir-Apparent or of His or Her Royal Highness Prince or Princess”;¹³³
- Is held “within the area of the National Assembly, the Government House, or the courts” or – under certain circumstances – within a 50m radius of the courts¹³⁴; or
- “obstructs the entrance of, impedes the performance of, or hinders access to service of: state agencies’ office; airports, wharfs, rail stations or any other public transportation station; hospital, educational institution or religious establishment; embassy or consulate of a foreign state or office of international organization; and other places as notified by the Minister”.¹³⁵

Section 8 of the Public Assembly Act also grants authorities extensive discretion to define “other places as notified by the Minister” where assemblies cannot be held.

The Public Assembly Act was invoked by Thai authorities on 8 November 2020 to prevent protesters from approaching the Royal Court where the Grand Palace sits. Thai authorities also invoked this law on 17 November 2020 to prevent protesters from getting near the Parliament House. This restriction of the right to peaceful assembly is disproportionate, as it undermines the object and purpose of the assembly’s reaching a target audience. Authorities must, to the extent possible, allow assemblies to voice their messages within sight and sound of their target audience.¹³⁶

¹³⁰ UPR Info, *List of recommendations made to Thailand and its responses*, 23 September 2016, <https://www.upr-info.org/en/review/Thailand/Session-25---May-2016/Responses-to-Recommendations#top>

¹³¹ Regulation No.13 Issued under Section 9 of the Emergency Decree on 31 July 2020, para. 1

¹³² Sections 4, 26, 28 and 63 of the Constitution of the Kingdom of Thailand

¹³³ Section 7 of the Public Assembly Act

¹³⁴ Section 7 of the Public Assembly Act

¹³⁵ Section 8 of the Public Assembly Act

¹³⁶ General Comment 37, paras. 26 and 53

Under international law, restrictions on the right to freedom of peaceful assembly must have legitimate grounds (which are limited to national security, public safety, public order, public health or morals, and the protection of the rights of others),¹³⁷ be prescribed by law, and be necessary and proportionate.¹³⁸ By way of contrast, the Public Assembly Act places restrictions so that “public assemblies are held peacefully and orderly, not affecting national security, public safety, public order and morals, public health, public facilitation and convenience, and protection of the rights and freedoms and human dignity of others”.¹³⁹

Several of these aims are not considered legitimate grounds for restrictions under international human rights law as they: do not constitute a situation which the existence of the nation or political independence must be preserved (national security); cause a real, significant risk to the safety of other persons or serious damage to properties (public safety); threaten the proper functioning of society and its fundamental principles (public order); have a definitive set of morals based on the universality of human rights and pluralism (public morals); or inherently violate the rights and freedoms of people not participating in the assembly, as required by international standards as potential grounds for the restriction of the right to freedom of peaceful assembly.¹⁴⁰

Authorities must presume protests are peaceful and impose restrictions only when absolutely necessary. Peaceful protests are a “legitimate use of public and other spaces, and since they may entail by their very nature a certain level of disruption to ordinary life, such disruptions must be accommodated, unless they impose a disproportionate burden, in which case the authorities must be able to provide detailed justification for any restrictions”.¹⁴¹

Section 6 of the Public Assembly Act also states that all public assemblies “shall be in a peaceful manner and without arms”. This does not consider, however, the actions of *agents provocateurs* or isolated violent incidents during largely peaceful protests. Hence, even though a protest has been mostly peaceful except for pockets of violence initiated by *agents provocateurs*, it could be deemed “violent” and thus illegal under Section 6 of the Public Assembly Act.

Section 10 requires that prior notification be submitted to local authorities at least 24 hours prior to a public assembly’s intended gathering time – with specific date and time and the intended use of public address speakers – or else the assembly can be deemed illegal. This provision was invoked by Thai authorities as one of the reasons for dispersing the 17 November 2020 protest. Police Colonel Kritsana Pattanacharoen, deputy police spokesperson, claimed that the protesters on that date not only gathered within a 50 metres range of the Parliament House, they also failed submit a 24-hour notification to local authorities as required under the Public Assembly Act.

Prior authorization of public assemblies should not be necessary. At most, what may be required is not unduly bureaucratic notification so as to allow authorities to facilitate the exercise of the right to peaceful assembly and to take measures to protect safety and public order and the rights and freedoms of others. The lack of notification should not criminalize protests for which prior notification was not given to authorities. Criminalizing protests for which no prior notification was given makes spontaneous protests impossible, something inconsistent with international law, which provides that “notification must not be required for spontaneous assemblies for which there is not enough time to provide notice”.¹⁴² Mere failure to notify the authorities of an assembly should therefore not render the entire assembly as unlawful.

¹³⁷ Article 21 of the ICCPR and General Comment 37, para. 41

¹³⁸ General Comment 37, paras. 36, 39 and 40

¹³⁹ Note in the Public Assembly Act

¹⁴⁰ General Comment 37, paras. 42 – 47

¹⁴¹ General Comment 37, para. 47

¹⁴² General Comment 37, para. 72

THE ROLE OF LAW ENFORCEMENT OFFICIALS

Although Section 19 of the Public Assembly Act states that officers shall “provide safety and facilitation to participants present at the public assembly”, in practice officers are first and foremost tasked with the surveillance of assemblies and may “impose conditions or orders” on protest organizers and participants or “deploy crowd-control equipment as notified by the Minister”.¹⁴³

The Public Assembly Act fails to task officers with establishing lines of communication or dialogue with protest organizers and participants¹⁴⁴ or preventing violence against protesters by other groups. In sum, it fails to require the police to take a facilitative approach to peaceful assembly, as required by international law and standards.

The Public Assembly Act also puts the burden of peacefully facilitating the public assembly on protest organizers and participants themselves. Section 15 states that organizers must “oversee and supervise the public assembly to be in a peaceful manner and without arms”, while Section 16 provides that participants have a duty to “not obstruct the public from use of the public place where the public assembly is held or cause unreasonable inconvenience to any person”.¹⁴⁵

USE OF FORCE BY LAW ENFORCEMENT OFFICIALS AND DISPERSAL OF ASSEMBLIES

As mentioned above, the Public Assembly Act allows Thai authorities to disperse assemblies if they are held in restricted areas, fail to submit notification to authorities 24 hours prior, or are not held in “a peaceful manner and without arms”.¹⁴⁶ Section 21 allows officers to issue a dispersal order and, should that fail, request a court order to adjourn the assembly.

Under international human rights law, crowd dispersal is only legitimate as a last resort: only when the protest is “no longer peaceful, or if there is clear evidence of an imminent threat of serious violence that cannot be reasonably addressed”.¹⁴⁷ The grounds provided under the Public Assembly Act do not constitute legitimate causes for dispersal under international law.

If officers issue a dispersal order under Section 21 and protesters do not comply, officers can also request a court order to adjourn the assembly. While awaiting the adjournment order, officers are granted the power to carry out “any necessary act” in accordance with police guidelines for surveillance of public assemblies. The term “any necessary act” is not defined and may open the door for the use of force. Although the use of force is not mentioned in the Public Assembly Act, it is referred to in the Public Assembly Policing Guidelines of the Royal Thai Police.

If the court grants an adjournment order under Section 21, Thai authorities must publicize or notify the protesters of the order and allow them a period to vacate the area under Section 24. If the protesters fail to comply with the court order, Thai authorities are obliged under Section 23 to notify the court, designate the demonstration area or its vicinity as a “restricted area” and inform demonstrators to vacate the area within a certain period of time. Protesters who do not follow the order to vacate are deemed to have committed an offence under Section 24, and the authorities may arrest individuals who remain in the restricted area without permission. Authorities can also search, seize, sequester or remove any items relating to the assembly or issue orders aimed at dispersing the assembly. The vague language in the law grants too much discretion to authorities to decide which actions are necessary under the guidelines and allows for excessive use of force by authorities. In the case where protesters “commit any violent and harmful act which may threaten the life, body, mentality or property of others and may give rise to public unrest”, authorities can order a stop to such acts under Section 25. If demonstrators do not comply with the order, officers have powers under Sections 23 and 24 as described above.

¹⁴³ Article 19 of the Public Assembly Act

¹⁴⁴ General Comment 37, para. 75

¹⁴⁵ Sections 15, 16 of the Public Assembly Act

¹⁴⁶ Sections 6, 10, 11 and 14 of the Public Assembly Act

¹⁴⁷ General Comment 37, para. 85

Under international law, isolated acts of violence committed by protesters do not render protests non-peaceful.¹⁴⁸ Section 25 does not distinguish between peaceful protesters and isolated acts of violence committed by individuals or groups of individuals, which may cause confusion as to whether public assemblies are violent under domestic law and provide grounds for dispersal far greater than those allowed under international law. Furthermore, the vagueness of “any necessary act” or “any order” (emphasis added) authorized to be taken in response to non-complying protesters grants too much discretion to law enforcement officials and leaves the door open for excessive use of force and police powers in violation of the principles of necessity and proportionality.

EMERGENCY DECREE

In response to the Covid-19 pandemic, on 25 March 2020 a nationwide “emergency situation” was declared in Thailand under the Emergency Decree and was still in force at the time of writing in June 2021.¹⁴⁹

Following the declaration, the prime minister invoked his power under Section 9(2) of the Emergency Decree to “prohibit the assembly or gathering of persons at any place or the commission of any act which may cause unrest”¹⁵⁰ and issued Regulation 1, which imposed a ban “to assemble, to carry out activities, or to gather at any place that is crowded, or to commit any act which may cause unrest in areas determined by the Chief Officer responsible for remedying the emergency situation on matters relating to security”.¹⁵¹

Any person found to have violated any provision of the regulations issued under the Emergency Decree may be imprisoned for a maximum of two years or fined a maximum 40,000 Thai baht (USD 1,333), or both.

On 5 June 2020, the Thai government notified the UN Secretary General that it wished to derogate from “some of its obligations under the ICCPR, particularly Article 12 (freedom of movement).” It did not state that it wished to derogate from any other right under the ICCPR, including the right to peaceful assembly.

On 15 October 2020, the prime minister declared a “serious state of emergency” under Section 11 of the Emergency Decree, saying that “groups of persons have instigated, incited and organized public assemblies in Bangkok contrary to the laws on public assembly... causing turmoil, disturbances and public disorder”. The prime minister referred to acts affecting the royal motorcade and said that there are “reasons to believe the existence of violent acts affecting the security of the state, the safety of the lives or properties of the State or persons, which are not peaceful assemblies recognized under the Constitution of the Kingdom of Thailand, and directly affect the effectiveness of the measures for the control of the spread of the communicable disease Coronavirus 2019”.¹⁵² In the week prior to the prime minister’s declaration of a “serious state of emergency”, the number of infections averaged seven new cases per day in Thailand. During the “serious state of emergency”, five or more persons were “prohibited to assemble or gather... at any place or to commit any act which instigates unrest”.¹⁵³ This “serious state of emergency” was revoked on 22 October 2020. It must be noted, though, that the previously imposed State of Emergency remains in force to this day.

On 25 December 2020, Regulation 15 was issued and it remains to this day the measure in place under the Emergency Decree and continues to prohibit Thais “to assemble, to carry out

¹⁴⁸ General Comment 37, para. 15 and 17

¹⁴⁹ The Declaration of an Emergency Situation in all areas of the Kingdom of Thailand on 25 March 2020

¹⁵⁰ The Emergency Decree on Public Administration in Emergency Situation B.E. 2548 (2005)

¹⁵¹ Regulation No.1 Issued under Section 9 of the Emergency Decree on 25 March 2020

¹⁵² The Declaration of a Serious Emergency Situation in the Area of Bangkok on 15 October 2020 and The Revocation of a Serious Emergency Situation in the Area of Bangkok on 22 October 2020

¹⁵³ Notification on the Power of Officials Concerning the Emergency Situation on 15 October 2020 and Regulation Issued to Promptly Resolve the Serious Emergency Situation on 15 October 2020

activities, or to gather at any place that is crowded, or to commit any act which may cause unrest in areas”.¹⁵⁴

Under the Emergency Decree, broad powers are granted to authorities, defined as any person appointed by the prime minister, including military officers.¹⁵⁵ Section 17 allows all authorities to enjoy immunity from any civil, criminal or disciplinary liabilities as a result of their actions if performed in good faith and if the acts are non-discriminatory, necessary and proportionate. Victims have the rights to remedy and reparation.¹⁵⁶

In practice, however, no official has been investigated or prosecuted for actions carried out under this decree despite the authorities’ apparent failure to meet the necessity and proportionality principles in previous instances in which the decree has been invoked. For example, the Thai government failed to investigate and bring charges against military personnel alleged to have shot dead six people in Pathum Wanaram temple during the deadly crackdown of protests in April and May 2010, despite evidence suggesting officers’ responsibility.

Under international law, the Thai government is obligated to investigate, prosecute and punish the unlawful use of force by law enforcement officials and provide the victims with effective remedies and reparation without exception.¹⁵⁷

DOMESTIC GUIDELINES ON POLICING ASSEMBLIES

The Public Assembly Policing Guidelines of the Royal Thai Police (hereafter, “Guidelines”) are contained in an administrative order issued to implement Section 21 of the Public Assembly Act, namely to “maintain public facilitation and to protect public assembly”. Under this provision, the Guidelines set out that officers must “refrain from the use of force” and “in the circumstances where the use of force is unavoidable, the use of force and the application of crowd-control equipment shall be used as necessary”.

Under international human rights law, any crowd control measure and the use of force must comply with the principles of legality, necessity, proportionality and non-discrimination. The principle of legality is inherently a basic general principle of law and the rule of law. In order to comply with the principle, restrictions must “be imposed through law or administrative decisions based on law. The laws in question must be sufficiently precise to allow members of society to decide how to regulate their conduct and may not confer unfettered or sweeping discretion on those charged with their enforcement.”¹⁵⁸ Section 21 of the Public Assembly Act fails to narrowly and clearly prescribe the extent of officers’ power and duties and the extent of permissible use of force and crowd-control equipment.

The Guidelines provide a clearer explanation of the powers and duties of officers than the Public Assembly Act. However, these guidelines are not publicly accessible, meaning public understanding of their legal implications cannot be ensured. Amnesty International was only able to review the Guidelines after requesting them from the Royal Thai Police. The Guidelines therefore do not meet the criteria of the principle of legality.

The Thai Police Guidelines set out principles of the use of force. Under the Guidelines, resort to force must be avoided first, but is permissible when all peaceful means are exhausted and the exigencies of the situation require. A notice of the use of force must be made to protesters

¹⁵⁴ Clause 3 of Regulation No.15 Issued under Section 9 of the Emergency Decree on 25 December 2020

¹⁵⁵ Sections 4 and 5 of the Emergency Decree

¹⁵⁶ Section 17 of the Emergency Decree

¹⁵⁷ General Comment 37, paras. 78 and 90, UN Congress on the Prevention of Crime and the Treatment of Offenders, *Basic Principles of the Use of Force and Firearms by Law Enforcement Officials*, UN Doc. A/CONF.144/28/Rev.1 (hereinafter: UN Basic Principles), para. 7, and Amnesty International, *Use of Force: Guidelines for implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (Report, 21 September 2015), (hereinafter: Amnesty International, *Guidelines on Basic Principles*), guideline no. 3 <https://policehumanrightsresources.org/use-of-force-guidelines-for-implementation-of-the-un-basic-principles-on-the-use-of-force-and-firearms-by-law-enforcement-officials>

¹⁵⁸ General Comment 37, para 39 citing *Nepomnyashchiy v. Russian Federation* (CCPR/C/123/D/2318/2013), para. 7.7; and General comment No. 34, para. 25

before deployment. Authorities must select the “most proportionate and suitable, least intrusive” measures to respond to the threat of the situation when deploying force. Measures used against women, children or the elderly must be suitable and not “cause damage to the operation’s image”.

The Guidelines specify how to use crowd-control equipment. Batons “must be used in order to push persons out of the area” and there must be notification prior to use. Rubber bullets should be “aimed at persons whose acts are violent or potentially harmful to other people’s lives, with clear targets, not used indiscriminately, not used automatically, and aimed at the bottom half of the target person’s body”. The water cannon “is used to disperse the assemblies, or to suppress or prevent harmful acts, with force necessary to disperse the assemblies, and not fired at delicate organs such as eyes”.¹⁵⁹

The actions of Thai authorities against the protesters during the incidents described in this report contravene the provisions above of the Guidelines that the Royal Thai Police have set for themselves when policing assemblies. Law enforcement officers are responsible for the protection and facilitation of peaceful protests. Force can only be used when absolutely necessary and when all non-violent means are exhausted and proved ineffective. Even when force is deployed, it must be for a legitimate law enforcement purposes, such as lawful arrest, and necessary and proportionate to achieving such purposes.

Amnesty International found that the police had inadequate justification to use physical force against the protesters due to the lack of violent acts likely to cause serious injury or death to the armoured officers themselves. Non-violent means, such as de-escalation and negotiation, were not thoroughly exhausted. Therefore, there was no necessity to resort to force. Moreover, the beatings appeared to be purely punitive, hence rendering them completely unlawful in any case.

Under international policing standards, baton strikes should only be targeted against a violent individual’s arms or legs. In the incidents documented in this report, Amnesty International found the use of batons by riot police unlawful and extremely disproportionate to the risk of violence presented.

Unlawful use of force by police against protesters, in particular children, after they have been apprehended and under control, amounts to torture or other ill-treatment under international law. In this instance, the officers responsible for such actions must face criminal and disciplinary investigation and, with sufficient evidence, prosecution. Victims must be provided with effective remedy and reparation for both the unlawful use of force during the course of the protest as well as during their detention.

On the use of controlling agents (chemical irritants), the Thai Police Guidelines state that these can be used “to disperse the assemblies, or to suppress or prevent harmful acts... with prior warning and with suitable level of toxicity” (unspecified in the Thai Police Guidelines). The Guidelines further state that tear gas must “be used with caution”, and authorities must “avoid throwing [the agents] at a person’s body” and use caution so as not to cause harm to [non-participating] bystanders.

Amnesty International considers the threshold provided in the Guidelines for the use of chemical irritants too low. Due to the indiscriminate nature of chemical irritants, they must only be used in case of widespread violence. Tear gas must also be prohibited, not “avoid[ed]”, from being thrown at a person’s body.

Amnesty International also notes that under the Guidelines, authorities deployed to assemblies are not required to receive specific training of weapon usage and could use weapons to prevent potential or threatening violence that affects people’s rights. International laws provide that only personnel who are trained in human rights standards in relation to the

¹⁵⁹ Section 6.2 of the Public Assembly Policing Guidelines of the Royal Thai Police

management of assemblies, and who have received specific training of weapon usage, should be deployed to public assemblies.

Under the Guidelines, victims are provided physical and legal assistance, including compensation.¹⁶⁰ However, the Guidelines do not specify if victims include protesters who suffered violence from authorities or only refers to individuals harmed by third parties' use of force.

Any actions taken under the Guidelines must still be in compliance with international human rights law and standards. Where these standards are not met, violations must be investigated and addressed, with perpetrators brought to justice where appropriate.

In addition, the Thai government should ensure that all laws and provisions governing the use of force are clearly and strictly defined, accessible to the public and conform to international human rights law and standards, including the principle of legality.

USE OF FORCE BY LAW ENFORCEMENT OFFICIALS

In accordance with the primary legal obligations to facilitate protests, law enforcement agencies should deploy a range of non-violent means while actively avoiding the use of force or any means capable of causing injury or death to protesters.¹⁶¹ For the same purpose, law enforcement officials deployed must be suitably equipped with protective devices, which may in some circumstances include helmets and bullet-proof vests, to minimize the need to use weapons. All less-lethal weapons available for law enforcement should be carefully assessed to decrease the risk of endangering uninvolved persons or bystanders.¹⁶²

With a view to preventing violations, states must promote a culture of accountability and transparency for those taking decisions about the regulation of the right to freedom of peaceful assembly. The public should know which public institution or mechanism is responsible for the regulation of assemblies, and the authorities responsible for making decisions concerning this right should be aware of their responsibilities under international human rights law.

Only personnel trained in human rights standards in relation to the management of assemblies should be deployed; military officers should not be deployed for this purpose.¹⁶³ Governments must ensure that all officials equipped with less-lethal weapons receive specific training and that weapons of any kind are independently, strictly evaluated.¹⁶⁴

Prior to resorting to the use of force, law enforcement authorities must first try to de-escalate potentially violent incidents with non-violent means and tactics, including negotiation and mediation.¹⁶⁵ Any decision to use force against protesters must meet three stringent conditions: non-violent means are exhausted and/or proved ineffective to attain the intended lawful purposes of preventing crime or assisting lawful arrests;¹⁶⁶ a prior warning of use of force is issued; and there is an absolute necessity to use force.¹⁶⁷

Even if all conditions are met, any use of force must comply with the principles of legality, necessity, proportionality and non-discrimination.¹⁶⁸ The use of force must not only be in accordance with domestic law and administrative regulations that the public can easily access and understand its legal implications, but must also be consistent with international law. Domestic law must not grant officers unrestricted powers to use, for instance, "all necessary

¹⁶⁰ Section 5.4, the Public Assembly Policing Guidelines of the Royal Thai Police

¹⁶¹ Amnesty International, *Guidelines on Basic Principles*, section 7.1 and UN Basic Principles, para. 2

¹⁶² For more information, see para. 3 of UN Basic Principles and UN Office of the High Commissioner for Human Rights, *Guidance on Less-Lethal Weapons in Law Enforcement*, UN Doc. HR/PUB/20/1 (hereinafter: UN Guidance on Less-Lethal Weapons).

¹⁶³ General Comment 37, para. 80. See also Amnesty International, *Guidelines on Basic Principles*, section 7.4.4

¹⁶⁴ General Comment 37, para. 81

¹⁶⁵ General Comment 37, para. 78

¹⁶⁶ UN General Assembly, Resolution on the Code of Conduct for Law Enforcement Officials, UN Doc. A/RES/34/169

¹⁶⁷ General Comment 37, para. 78, and UN Basic Principles, para. 4

¹⁶⁸ General Comment 37, para. 78 and 79, and Amnesty International, *Guidelines on Basic Principles*, p. 17

force”.¹⁶⁹ For the same reason, only weapons and equipment authorized by state authorities can be deployed by law enforcement officials. Limitations must also be set on less-lethal weapons to reduce potential injury and damage to property.¹⁷⁰ Law enforcement operations must give special consideration to the specific needs of individuals “who are particularly vulnerable to the harmful consequences of the use of force”, including children, pregnant women, older people and persons with disabilities.¹⁷¹

Law enforcement officials are permitted to use force only when absolutely necessary to achieve lawful objectives and no alternative proves effective.¹⁷² Authorities must determine the balance between potential benefits of and possible harm caused by the use of force and, based on this, apply the minimum force proportionate to address the threat.¹⁷³ In the case of isolated acts of violence in a peaceful protest, non-violent individuals and bystanders must be distinguished from individuals engaging in or threatening violence, and authorities must only target the latter.¹⁷⁴ Importantly, when use of force is about to be deployed, or violence is likely, adequate medical facilities must be made available.¹⁷⁵

During the course of force being deployed, authorities must at all times exercise restraint and minimize injury with the underlying aim being to protect the right to life.¹⁷⁶ In doing so, the force must not be deployed in a discriminatory manner against individuals or groups on the basis of their race, ethnicity, sexual orientation, religion or political view.¹⁷⁷ Once the need for the use of force is no longer necessary, such as when violent individuals or groups are removed from the overall peaceful protest, “no further resort to force is permissible”.¹⁷⁸

WATER CANNONS

Due to its inaccuracy and inherently unpredictable effects, water cannons must only be used in serious public disorder with potential serious harm to people, adhering to the principles of necessity and proportionality. It must be used for the sole purpose of dispersing the crowd, and therefore must not be targeted at individuals at short range (and thereby causing people to fall or sustain secondary injuries) or at persons who are restrained or unable to move due to its risks of permanent blindness and secondary injuries.

BATONS

Batons can be lawfully used against individuals who are either “inflicting or threatening to inflict injury on a law enforcement official or a member of the public”. Baton strikes should only be targeted against a violent individual’s arms or legs.

¹⁶⁹ General Comment 37, para. 79

¹⁷⁰ General Comment 37, paras. 78 and 79, UN Guidance on Less-Lethal Weapons, paras. 2.4 and 2.5, Amnesty International, *Guidelines on Basic Principles*, p. 17.

¹⁷¹ UN Guidance on Less-Lethal Weapons, para. 2.7

¹⁷² General Comment 37, paras. 24 and 79, Guidance on Less-Lethal Weapons, paras. 2.8, 2.9 and 2.10, Amnesty International, *Guidelines on Basic Principles*, p. 18.

¹⁷³ Amnesty International, *Guidelines on Basic Principles*, p. 18

¹⁷⁴ General Comment 37, para. 17 and 86

¹⁷⁵ General Comment 37, para. 88

¹⁷⁶ UN Basic Principles, para. 5

¹⁷⁷ UN Guidance on Less-Lethal Weapons, para. 2.11

¹⁷⁸ General Comment 37, para. 79

TEAR GAS

The term “tear gas” describes a range of chemical irritants (CS) contained in canister launched and dispersed at a distance at groups of individuals usually to disperse protests. It has unpredictable effects by nature with high plausibility of affecting bystanders and non-violent protesters.

The consequences could be lethal when canisters are directly targeted at individuals or launched in confined spaces. Exposure to tear gas causes temporary breathing difficulties and tightening of the chest, nausea and irritation of eyes and skin – lasting 10-20 minutes in most cases. Children, pregnant women and the elderly are reportedly more susceptible to its effects.

The purpose of tear gas is to disperse a crowd when there is widespread violence. Chemical irritants projectiles – hand-held or launched by a device at a distance – must not be fired directly at individuals, at a low angle or in confined spaces where exit is hindered. Law enforcement officials must always apply the lowest level of toxicity of irritants possible to attain intended objectives.

KINETIC IMPACT PROJECTILES

Kinetic impact projectiles, including rubber bullets, are a less-lethal alternative to live ammunition used by law enforcement officials to tackle violent individuals. Some types of projectiles are also highly inaccurate. Skip-firing projectiles, which are projectiles that have been aimed at the ground in order for them to bounce, can also cause a risk of serious injury due to their inaccuracy.

Kinetic impact projectiles should only be used to target persons who are engaging in violence in protests and “in direct fire with the aim of striking the lower abdomen or legs of a violent individual”. Risks specific to kinetic impact projectiles include skull fracture and brain injury, blindness or even death, if aimed at the face, head or torso of a person. This type of less-lethal weapon should not be fired in automatic mode or targeted at the head, face or neck of individuals.

WHEN A PEACEFUL ASSEMBLY BECOMES VIOLENT

An assembly may only be considered outside of the protection of the right to freedom of peaceful assembly where there is compelling and demonstrable evidence of resort to violence or to advocacy of hatred constituting incitement to violence, hostility or discrimination on the part of a majority of the participants. Further, no assembly should be considered “unprotected” by international human rights law, as even where the right of peaceful assembly is no longer engaged, other fundamental rights remain relevant.¹⁷⁹

Non-peaceful assemblies may be dispersed in a proportionate manner. However, it should be noted that any attempt to disperse an assembly should be regarded as a last resort: namely, only when the protest is “no longer peaceful, or if there is clear evidence of an imminent threat of serious violence that cannot be reasonably addressed”.¹⁸⁰ Isolated acts of violence by a small number of participants or protesters do not characterize the protest as non-peaceful. Any intervention in such cases should aim to deal only with the non-peaceful participants of the assembly.¹⁸¹ If *agents provocateurs* (that is, persons who induce others to break the law) infiltrate an otherwise peaceful assembly, law enforcement officers should take prompt actions

¹⁷⁹ Report to the Commission on Human Rights, Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on extrajudicial, summary or arbitrary executions, UN Doc. A/HRC/31/66, para. 9

¹⁸⁰ General Comment 37, para. 85

¹⁸¹ General Comment 37, para. 15 and 17

to remove them rather than terminate or disperse the assembly. However, a high level of disruption that is “serious and sustained” may constitute cause for dispersal.¹⁸²

Decisions for dispersal must meet the conditions set out in domestic law.¹⁸³ If a decision is taken to disperse an assembly, law enforcement officials must clearly and audibly inform the participants of such intention. Participants must be given reasonable time to disperse voluntarily.

Law enforcement officials must deploy the least intrusive means of achieving their lawful purposes. When dispersing protests, force should be avoided and “any force used should be directed against a specific individual or group engaged in or threatening violence”.¹⁸⁴ If the use of force is absolutely necessary, the principles of necessity and proportionality must be adhered to. Force “likely to cause more than negligible injury” should not be directed at individuals who are passively resisting.¹⁸⁵

PROTECTION FROM THIRD PARTY VIOLENCE

In the context of assemblies, violence indicates the use of physical force by protesters against others that is likely to cause injury, death or significant damage to property. Mere pushing and shoving or disruption of vehicular or pedestrian movement or daily activities do not amount to “violence”.¹⁸⁶ Civil disobedience and campaigns carried out in a peaceful manner; disruption of traffic or pedestrian movement or daily activities; failure to meet certain domestic legal requirements (such as advance notice to the authorities); isolated acts of violence by protesters; or violence against peaceful demonstrators by authorities or third parties neither render the assembly non-peaceful as a whole nor place protesters outside the scope of state protection.¹⁸⁷

During the assembly, law enforcement officials must protect individuals against violent acts committed by others, and where necessary, remove those who act violently against others. When different groups of protesters are present, law enforcement authorities must “protect participants against possible abuse by non-state actors, such as interference or violence by other members of the public, counterdemonstrators and private security providers”.¹⁸⁸

ACCOUNTABILITY

Accountability plays a critical role in preventing impunity and abuses of law that cause severe impacts on persons’ human rights and helps to ensure future human-rights-compliant policing. Law enforcement officials who are responsible for unlawful use of force must be subject to investigation, prosecution and, if convicted, punishment.¹⁸⁹ Exceptional circumstances, such as a state of emergency, cannot be used to justify breaching the criteria for the use of force.¹⁹⁰

To ensure an effective accountability system, four areas must be addressed: criminal investigation of law enforcement officials with command responsibility taken into account, disciplinary investigation to take necessary corrective measures, effective remedy to victims of unlawful use of force, and a review of the institutional functioning.¹⁹¹

¹⁸² General Comment 37, para. 85

¹⁸³ General Comment 37, para. 85

¹⁸⁴ General Comment 37, para. 86

¹⁸⁵ General Comment 37, para. 86

¹⁸⁶ General Comment 37, para. 15

¹⁸⁷ General Comment 37, paras. 15 - 18

¹⁸⁸ General Comment 37, para. 24

¹⁸⁹ Amnesty International, *Guidelines on Basic Principles*, guideline no. 3. See also General Comment 37, paras. 78 and 90 and UN Basic Principles, para. 7

¹⁹⁰ UN Basic Principles, para. 8

¹⁹¹ Amnesty International, *Guidelines on Basic Principles*, p. 65 – 76

According to international law and standards, domestic law must not grant law enforcement officials unrestricted powers and discretion to resort to force.¹⁹² A culture of accountability should be developed and promoted among authorities during the management of protests. For example, responsible officials should always display visible identification and present a warrant when apprehending individuals.¹⁹³

Effective remedies and reparation must be provided for victims of unlawful use of force, including compensation, rehabilitation, restitution, satisfaction and guarantee of non-repetition.¹⁹⁴

¹⁹² General Comment 37, para. 79

¹⁹³ Amnesty International, *Guidelines on Basic Principles*, section 3.1

¹⁹⁴ Amnesty International, *Guidelines on Basic Principles*, p. 65, General Comment 37, para. 90, and UN Guidance on Less-Lethal Weapons, para. 3.12. See also UN Basic Principles and UN General Assembly, Resolution on the guidelines on the Right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law, UN Doc. A/RES/60/147

4. CONCLUSIONS AND RECOMMENDATIONS

Amnesty International verified and corroborated evidence of the unlawful use of force by the Thai police, including via the unlawful deployment of water cannons, chemical irritants (tear gas) and rubber bullets. Police directly, or at times indiscriminately, fired water jets laced with chemical irritants at protesters, protest guards and participants who were peacefully exercising their right to freedom of peaceful assembly, as well as journalists and observers who were exercising the right to freedom of expression. On three occasions (on 16 October 2020, 8 November 2020 and 17 November 2020), these acts were illegal, unnecessary and disproportionate, in violation of international human rights law and standards.

Law enforcement officials equipped with protective gear, such as shields and bullet-proof vests, failed to take measures to prevent third parties from causing violence against peaceful protesters. Amnesty International also documented that the majority of law enforcement officials deployed to disperse the peaceful protests or use less-lethal weapons against protesters did not display any visible identification, which poses an impediment to holding them accountable for their actions.

Thailand's response to these public assemblies, which appear to be mainly led by youth presents a distressing image of the Thai government's seriousness to promote and protect human rights. Thailand must ensure that every person can fully enjoy their human rights guaranteed under international human rights law and standards. It is of the utmost importance that Thailand respects the right to freedom of peaceful assembly.

In light of the findings in this report, Amnesty International makes the following recommendations to all law enforcement agencies, the Thai government and all other relevant parties:

TO ALL LAW ENFORCEMENT AGENCIES:

- Protect the rights of all peaceful protesters from disruption or violence by third-party actors and facilitate peaceful protesters' ability to voice their messages through dialogue and negotiation, pre-event and during the assembly.
- Differentiate between violent and non-violent actors and target law enforcement action only to violent actors committing criminal actions.
- Prioritize non-violent means, such as negotiation, mediation and dialogue, to de-escalate situations that might lead to violence.
- Ensure that devices that have indiscriminate effects and a high potential of harm, such as tear gas or water cannons, are only used in situations of more generalized violence for the purpose of dispersing a crowd and only when all other means have failed to contain the violence. They may only be used

when people have the opportunity to disperse and not when they are in a confined space or where roads or other routes of escape are blocked. People must be warned that these means will be used, and they must be allowed to disperse.

- Refrain from adding chemical irritants to the liquid of water cannons.
- Avoid the use of chemical irritants in times of a pandemic, as it likely increases the risk of contagion (that is, persons exposed to chemical irritants will cough, sneeze, take their masks off or run away in panic without considering the distance between them and others).
- If at all, only resort to the use of chemical irritants if there is serious and widespread violence against persons and when there are no other less harmful means available to address the violence.
- Never fire kinetic impact projectiles, including rubber bullets, randomly at a crowd, as it increases the risk of serious injury, including to people not engaged in violence.
- Ensure that any use of force during assemblies is deployed only when absolutely necessary and in line with the principles of necessity and proportionality.
- Ensure that, during the course of duty, law enforcement officials follow the UN Basic Principles on the Use of Force and Firearms for Law Enforcement Officials.
- Never deploy any type of force likely to cause more than negligible injury to disperse a peaceful assembly.
- Never disperse an assembly merely because of the protesters' non-compliance with the notification regime under the Public Assembly Act.
- Never disperse an assembly because the intended site is in a prohibited area or protesters enter a prohibited area.
- Protect any protester facing violent acts, through adequate deployment of personnel, and promptly intervene to remove violent actors.
- Review and revise trainings provided to law enforcement officials, ensuring that they include thorough training on international human rights standards, the lawful use of force and firearms, and the policing of protests, in particular the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- Review and revise the Public Assembly Policing Guidelines of the Royal Thai Police to ensure they are in compliance with international human rights standards, in particular the UN Basic Principles on the Use of Force and Firearms for Law Enforcement Officials, as well as make them accessible to the public. In doing so, use as a benchmark Amnesty International's *Use of Force: Guidelines for the Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*.¹⁹⁵
- Investigate and prosecute law enforcement officials responsible for unlawful use of force, as well as their superior officer(s).
- Ensure that police officers wear clearly visibly personal identification.

TO THE GOVERNMENT OF THAILAND

- Ensure the overall approach in policing assemblies is to facilitate and guarantee the right to freedom of peaceful assembly of protesters based on the presumption that demonstrations are peaceful.
- Amend or repeal Section 9 of the Emergency Decree, which places blanket restrictions on public assemblies. The government must assess assemblies and potential required restrictions on a case-by-case basis.
- Amend or repeal problematic provisions under the Public Assembly Act, in particular the blanket restrictions on assemblies in certain areas.

¹⁹⁵ Amnesty International, *Use of Force: Guidelines for implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (Report, 21 September 2015)

- Ensure a prompt, independent, impartial and effective investigation into the use of force, including water cannon and chemical irritants, by officers deployed as riot police, including the Border Patrol Police, against peaceful protesters in 2020, as well as provide effective remedies and reparation for victims of unlawful use of force, including compensation, rehabilitation and guarantee of non-repetition.

TO THE NATIONAL ASSEMBLY OF THAILAND

- Amend or repeal the Public Assembly Act and the Emergency Decree to bring them in line with international human rights law and standards, including to allow for spontaneous protests and to remove excessive restrictions on peaceful assemblies.

TO GOVERNMENTS ENGAGED IN BILATERAL COOPERATION WITH THAILAND:

- Ensure that any bilateral law enforcement cooperation mechanisms, technical assistance programmes, or sales of less-lethal weaponry do not directly or indirectly contribute to human rights violations against peaceful protesters.
- Urgently review cooperation with the Thailand government, including financial assistance and the provision of training and other security assistance with Thai law enforcement agencies until officers responsible for unlawful use of force is investigated and victims are remedied.
- Use all bilateral, multilateral, and regional platforms at your disposal to urge the Thai authorities to protect and facilitate the right to freedom of peaceful assembly.

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info@amnesty.org



+44 (0)20 7413 5500

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“MY FACE BURNED AS IF ON FIRE”

UNLAWFUL USE OF FORCE BY THAILAND’S POLICE DURING PUBLIC ASSEMBLIES

In this report Amnesty International outlines multiple violations of the right to freedom of peaceful assembly by Thai authorities. Focusing on the Royal Thai Police’s management of largely peaceful youth-led demonstrations in 2020 and early 2021, it examines the use of force by authorities policing the protests. The report describes incidents in which authorities used unlawful force, including in the unlawful deployment of water cannons, chemical irritants (tear gas) and rubber bullets. It highlights police failures to take measures to prevent third parties from causing violence against peaceful protesters. The report makes recommendations to Thailand’s law enforcement agencies, government and parliament, as well as countries with bilateral relations with Thailand on steps to bring law and practice in line with the country’s obligations under international law and standards.