

Open Letter

Thailand: FIDH's call to delay enactment of National Security Act

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International Federation for Human Rights (FIDH)

General Surayud Chulamont

Interim Prime Minister *

c/o Government House

Pitsanulok Road, Dusit District

Bangkok 10300

THAILAND

Paris, July 10, 2007

Dear Prime Minister,

The International Federation for Human Rights (FIDH) expresses its profound concern regarding the Draft Bill on the Maintenance of National Security in Thailand. The Bill proposes changes to Thai law that serve only to further weaken Thai democracy and attack the human rights of the Thai people. Bearing in mind the interim character of the post-coup National Legislative Assembly, FIDH urges the Thai government not to take any steps that derogate from existing rights and reminds the leadership of the importance of representative participation in the elaboration of any new domestic laws.

Of particular concern is the apparent attempt of the draft legislation to narrowly define national security in an ethno-cultural context. Article 3 (1) of the draft, in equating the maintenance of national security with the maintenance of Thai culture and "Thai-ness", unnecessarily emphasises potentially divisive notions of ethnic difference and superiority, to the detriment of Thailand's rich and diverse cultural history. More generally, the creation of offences relating to acts that threaten the imprecisely defined concept of "national security" may consequently curtail human rights.

The draft law restricts basic human rights such as freedom of movement, freedom of assembly and freedom of expression. FIDH reminds Thailand of

its responsibilities as a State Party to the International Covenant on Civil and Political Rights (ICCPR) and emphasises the well-established principle of international law that such rights may be limited only in the most exceptional circumstances. In addition, the draft law infringes the absolute prohibition, at international law, on arbitrary arrest and detention. FIDH urges the Thai government to adhere to its international obligations and take seriously its role as a promoter of human rights in a region where several countries are yet to commit themselves to the basic international instruments protecting human rights. Restrictions on the rights listed above should not, moreover, be dictated by the recently re-established Internal Security Operations Command (ISOC), whose composition appears undesirably military in nature. FIDH reaffirms its belief that it is elected representatives, not military officials, who are the proper administrators of democracy.

FIDH's concern is compounded by the immunity granted to security forces by the draft law. Article 36 of the Bill removes orders and actions restricting human rights from the jurisdiction of the Administrative Court while Article 37 protects officers from civil and criminal prosecution or disciplinary action where they were performing their actions in good faith. The two articles remove the safeguard provided by the right to judicial remedies and provide total immunity to officials. Such provisions will feed impunity and contribute to further human rights violations. Effective accountability mechanisms are indispensable to ensure sufficient remedies for victims.

FIDH urges the National Legislative Assembly to delay enactment of any National Security Act until such a time as democratic elections have produced a legitimate government for the people that will, at all times, act in accordance with international human rights standards.

Respectfully,

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