

Thailand: Restrictions on Freedom of Expression Question the Legitimacy of Referendum

(Geneva, 4 August 2016) - The Asian Forum for Human Rights and Development (FORUM-ASIA) and its members in Thailand – People’s Empowerment Foundation (PEF), Community Resource Centre (CRC) and the Association for Human Rights and Women’s Rights in Development (AWARD) – express grave concern over severe restrictions on fundamental freedoms prior to the forthcoming constitutional referendum in Thailand on 7 August 2016.

The referendum takes place at a critical juncture in the history of Thailand. The draft constitution being put to vote will have implications for the future of the political system and institutions in the country. The draft constitution provides for such provisions as the appointment of the members of the House of Senate, the proportional system of elections for the House of Representatives, and the proposal for an un-elected Prime Minister to be appointed to continue the junta’s roadmap. These issues require intensive debate and dialogue among the people, since it relates to a fundamental political architecture that affects their everyday socio-political life. However, no space is available for the Thai people to constructively debate and critique the provisions of the draft constitution. The formation and expression of an informed opinion is central to any referendum. However, the Thai people are deprived of these fundamental human rights.

Article 61 of the Referendum Act, which carries a maximum sentence of 10 years for ‘anyone who criticises or opposes the draft constitution’, clearly violates the right to freedom of expression and Thailand’s international human rights obligations. Thailand is a state party to the International Covenant on Civil and Political Rights (ICCPR), which provides that everyone has the right to freedom of expression, including the ‘freedom to seek, receive, and impart information and ideas of all kinds’, as stated in Article 19.

“A referendum without freedom of expression cannot be considered free and fair, as it inhibits people’s participation, which is essential for a referendum to be democratic,” says Evelyn Balais-Serrano, the Executive Director of FORUM-ASIA. “The restoration of democracy is urgent but the process must be inclusive, transparent and based on the will of the Thai people.”

In the past few months, at least 20 student activists and referendum critics, including a journalist, have been either arrested or investigated under Article 61 of the Referendum Act or Article 116 of the Criminal Code (Sedition). On 26 July 2016, the Election Commission in Ubonratchatani Province filed a complaint against anti-dam activist Krisakorn Silarak, from the non-governmental organisation Assembly of the Poor, on alleged violation of the Referendum Act.

“By imposing a blanket ban on any campaign opposing the draft constitution, it is clear that the referendum process has no place for any critical assessment. Through this kind of process, the military government will not attain a political legitimacy or reach a national consensus”, concludes Evelyn Balais-Serrano.

About FORUM-ASIA:

FORUM-ASIA is a regional human rights group with 58 member organisations in 19 countries across Asia. FORUM-ASIA addresses key areas of human rights violations in the region, including freedoms of expressions, assembly and association, human rights defenders, and democratisation.

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