

May 12,
2022

jointletter:

to President Biden

**Re: Thailand's
abusive draft law
on not-for-profit
organizations**

joint letter

To: President Joseph R. Biden, Jr.
The White House
Washington, DC



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Re: Thailand's abusive draft law on not-for-profit organizations

May 12, 2022

CC:

Antony J. Blinken, Secretary of State,
U.S. Department of State
Wendy R. Sherman, Deputy Secretary of
State, U.S. Department of State

Sincerely,

1. Amnesty International
2. APCOM
3. Asian Cultural Forum on
Development (ACFOD)
4. Asia Network for Free Elections
(ANFREL)
5. Asia Pacific Refugee Rights
Network (APRRN)
6. Asia Pacific Transgender Network
(APTN)
7. Article 19
8. Asia Democracy Network (AND)
9. Be Slavery Free
10. Campaign Committee for Human
Rights (CCHR)
11. Campaign for Popular Democracy
(CPD)
12. CIVICUS: World Alliance for Citizen
Participation
13. Community Resource Center (CRC)
14. Cross Cultural Rights Foundation
(CrCF)
15. CSO Coalition for Ethical and
Sustainable Seafood (CSO
Coalition)

We, the undersigned non-profit organizations, are writing to express our serious concerns regarding Thailand's Draft Act on the Operations of Not-for-Profit Organizations, which the Thai Cabinet approved in principle on January 4, 2022. Passage of this draft law would systematically violate the rights to freedom of association and freedom of expression of non-profit groups, so we urge you to call on the Thai government to scrap this draft law when you meet with the Thai Prime Minister Prayuth Chan-o-cha and his delegation at the upcoming US-ASEAN special summit at the White House on May 12-13, 2022.

The draft law would enable officials to unilaterally order the temporary or permanent shutdown of any non-profit organization (NPO) operating in Thailand if they conduct activities or make public representations that the Thai government considers adversely affects Thailand's "relations between countries"; "affect the happy, normal existence of other persons"; affect "public interest, including public safety"; infringe on "public order," or "people's good morals;" or "cause divisions within society." Non-profit organizations also are forbidden from doing anything that infringes on "the rights and liberties of other persons" or impacts the "government's security, including the government's economic security." None of these terms are defined in any way, providing maximum discretion to officials, including the military and national security officials who are the originators of this draconian, rights-abusing legislation, to arbitrarily act against any organization.

If this bill becomes law, we anticipate that many of the organizations signing and supporting this letter to you will face punitive action, including intrusive investigations, public threats, and ultimately orders from government authorities to end operations.

As you may know, in addition to the laudable work done by Thai civil society organizations in supporting human rights, social welfare, civic activity, and humanitarian work in Thailand, there is also a regional dimension to civil society in Thailand, with important international humanitarian and human rights organizations operating in Thailand to assist refugees and displaced persons fleeing the crisis in Myanmar (Burma) and supporting the provision of assistance into Myanmar. These efforts will also be put at risk if the draft law passes, given the provision that prevents civil society from undertaking actions that ostensibly jeopardize Thailand's friendly relations with its neighboring countries.

16. Democracy Restoration Group (DRG)
17. EnLAW
18. Environmental Justice Foundation (EJF)
19. Equal Asia Foundation
20. Finnwatch
21. Fishwise
22. Fortify Rights
23. Forum Asia (Asian Forum for Rights and Development)
24. Freedom Fund
25. Freedom United
26. Global Labor Justice-International Labor Rights Foundation
27. Glom Duayjai
28. Green America
29. Greenpeace Thailand
30. Greenpeace USA
31. Human Rights Watch
32. Human Rights and Development Foundation (HRDF)
33. Human Rights Lawyers Association (HRLA)
34. Humanity United Action
35. ILGA Asia (Asian Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association)
36. Inter Mountain People's Education and Culture in Thailand Association
37. International Commission of Jurists (ICJ)
38. International Federation for Human Rights (FIDH)
39. International Justice Mission (Thailand)
40. Jaringan Mangsa Dari Undang-Undang Darurat (JASAD)
41. Justice for Peace Foundation
42. Kru Kor Sorn

Similarly, Thailand has long served as a refuge for political and rights activists fleeing from repressive governments in Vietnam, Cambodia, and Laos, and non-profit organizations supporting these refugees would also face significant threats to be shut down if this bill is enacted.

Protecting Thai civil society

To comply with relevant provisions of the Thai constitution, the Thai government, led by the Ministry of Social Development and Human Security, organized a public comment process between late January 2022 and the end of April 2022. In response to this rudimentary consultation process, a total of 1,867 non-profit organizations across Thailand released a joint statement and subsequently held a public rally to call for the Thai government to withdraw this bill.

The core message of our coalition is that we are civil society groups working on a wide range of issues. As organizations, we work across many sectors, and among other things, we strengthen democratic processes; safeguard the environment; reduce poverty; feed families; support children, people with disabilities, and older people; stop human trafficking; investigate business supply chains; protect human rights; support civil initiatives; expose government corruption and malfeasance; protect whistle blowers; and help people to access adequate health care and education.

Thai civil society and international supporters make Thailand a better, more inclusive democracy, and they should not face draconian restrictions of the sort that the current Thai government is proposing.

Risks of the bill

The draft law threatens the important work of civil society, and the Thai government has provided no rationale for this law, except that other countries in the region have similar laws. The drafters openly espouse to follow the example of India, where government restrictions forced the closure of many international nongovernmental organizations. Thai government claims that they are aiming to create “transparency” in the non-profit sector have no basis, given that Thailand already has adequate laws and regulations to regulate non-profit organizations. Put simply, this draft law is a massive extension of government power over every aspect and every grouping of civil society in Thailand.

The specific language of the law states that: “‘Not-for-profit organization’ means a collective of private individuals who form themselves as any form of grouping to conduct activities in society without intending to seek profits to be shared. However, it shall not include a group of people gathering to implement a particular, one-time activity, or conduct an activity to serve only the interests of the group, or a political party.” Moreover, the law states that “Any NPOs which have been established by virtue of any specific law, in addition to having to act in compliance with that law, shall also be subject to the provisions of this Act.”

43. Labour Protection Network (LPN)
44. Lawyers Rights Watch Canada (LRWC)
45. Manushya Foundation
46. MAP Foundation (Migrant Assistance Program)
47. MobNews
48. NGOs for the People
49. Patani Human Rights Organization (HAP)
50. Peace and Human Rights Resource Center (PHRC)
51. Protection International
52. SEA Junction
53. SHero Thailand
54. Solidarity Center
55. Stop Drink Network Thailand (SDN)
56. Thai Action Coalition for Democracy in Burma (TACDB)
57. Thai Lawyers for Human Rights (TLHR)
58. Thai Teachers for Child Rights Association (TTCR)
59. Togetherness for Equality and Action (TEA)
60. Union for Civil Liberty (UCL)
61. United Front of Thammasat and Demonstration
62. Verite
63. Women4Oceans
64. Workers' Union (Thailand)
65. Young Pride Club (YPC)

Given the broad definition of “non-profit” organization, the law will encompass everything from foreign chambers of commerce to farmer groups, organizations supporting vulnerable persons like people living with HIV/AIDS, migrant worker collectives, LGBTQ+ organizations, aggrieved villagers protesting land expropriation, forestry and environmental groups, community sports clubs and local foundations, human rights organizations, and community development groups. There are no apparent limits when it comes to the groups that will be adversely affected by this law.

Put simply, the Thai government appears to be hoping that the international community will be looking the other way while it severely restricts basic freedoms across Thailand. In a nation of nearly 70 million people with a government infused with military influence at top levels, it is clear provisions of this bill would be applied arbitrarily to severely restrict the rights to freedom of expression, association, peaceful assembly, and other human rights.

A closer look at the bill

As mentioned above, the draft law’s language is very vague. The subjective language means that almost any action could qualify as violating the law’s provision. Below, non-profit organizations are asked to make sure they are not tainting people’s “good morals” or “disturbing the normal happy existence of persons” —or pay a daily fine of 10,000 baht (US\$295).

Section 20: A Not-for-Profit Organization must not operate in the following manner:

- (1) Affect the government’s security, including the government’s economic security, or relations between countries.
- (2) Affect public order, or people’s good morals, or cause divisions within society.
- (3) Affect public interest, including public safety.
- (4) Act in violation of the law.
- (5) Act to infringe on the rights and liberties of other persons, or affect the happy, normal existence of other persons.

Section 26: Any NPO which fails to stop its operations as ordered by the registrar under Section 20, paragraph 2 or Section 21 where Section 20 paragraph 2 applies, shall be liable to a fine not exceeding 500,000 baht and a daily fine of 10,000 baht throughout the period of the breach or until it is operating correctly.

The draft law will also effectively prevent organizations who are helping communities throughout Thailand from accessing the funding they need to do their crucial work. The restrictions and reporting requirements on

funding support coming from outside Thailand are contrary to international law. They also inhibit a crucial source of funding for organizations that help people in Thailand every day.

Section 21: A Not-for-profit Organization which receives funding or donations from foreign sources is required to act as follows:

- (1) Inform to the registrar the name of the foreign funding sources, the bank account receiving the funds, the amount received, and the purposes for the disbursement of the funds.
- (2) Must receive foreign funding only through a bank account notified to the registrar.
- (3) Must use the foreign funding only for the purposes notified to the registrar in article (1).
- (4) Must not use foreign funding for any activity characteristic of pursuing state power, or to facilitate or help political parties.

The draft law moves Thailand further down the slippery slope to a loss of privacy and the right to freedom of association.

Section 19: To ensure transparency and to keep the public informed about the operations of NPOs, an NPO is required to disclose information regarding its name, founding objectives, implementation methods, sources of funding, and names of persons involved with its operations to ensure such information is easily accessible to government agencies and the public.

Civil society organizations, the individuals who work for them, and the communities who benefit from these groups have the right to come together, express their opinions, and contribute to their communities. Those core civil and political rights are enshrined in international law, notably the United Nations International Covenant on Civil and Political Rights, which Thailand is a state party to and is obligated to uphold.

Recommendations

We respectfully call on you and your administration to press the Thai government to immediately withdraw the Draft Act on the Operations of Not-for-Profit Organizations and to ensure any other laws and regulations that Thailand proposes pertaining to non-profit organizations strictly adhere to international human rights law and standards.