

HISTORICAL FILE

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"Political Prisoners in Thailand"

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APPEAL ON BEHALF OF POLITICAL PRISONERS IN THAILAND

Amnesty International's concern for political prisoners currently held in Thailand covers the following categories of people:

1. Those arrested before the military coup of 6 October 1976 and charged with alleged violation of the Anti-Communist Activities Act;
2. Those arrested during the coup of 6 October 1976 in connection with events at Thammasat University;
3. Those detained by emergency decree on suspicion of being "dangerous to society";
4. Those arrested in remote areas on suspicion of being communists or communist sympathizers.

The first category includes the case of Supap Pasa-Ong and eight others who were arrested in March 1976. Supap had been an active student leader and he later became a journalist before becoming active in the trade union movement. He became adviser to a number of trade unions located in Kratumban District, Samutsekul Province. The police allege that they found two guns and communist subversive literature belonging to Supap and his eight colleagues (five of whom were workers and three students). The prisoners vigorously deny that they had been in possession of firearms. The trial of the nine prisoners began in September 1976 with a hearing fixed for one day each week (every Wednesday), and has been proceeding at such a slow pace that it is expected to go on for a very long time. Of the nine arrested, two girls (Mipapan Patanapaiboon and Sangumsri Benjangkajarn) have been released on bail.

The case of Supap Pasa-Ong and his co-defendants is the best known example of the arrest of trade union activists. Until now, more than two years after the arrest, evidence has not been presented in court which shows that the prisoners had used violence or planned to use violence in the conduct of their union activities. It should be noted also that the prisoners were originally arrested during the period of elected civilian government, and following the military coup of 6 October 1976, the authorities have continued with the prosecution.

With regard to the seven remaining prisoners in this case, it is the view of Amnesty International that, since more than two years have passed from the time of their arrest and no evidence has yet been produced in the trial to show that the prisoners had planned or used violence, the prisoners should be released on bail pending the prompt conclusion of their trial.

The second category includes the 18 persons held on charges relating to the student demonstrations at Thammasat University in October 1976. The Thammasat student demonstrations were in protest against the return to Thailand of the exiled former military

dictator, Thanom Kittikachorn. During the demonstrations, the students staged what they described as a re-enactment of a recent incident in which two students who had been putting up anti-Thanom posters were seized by the police and hanged. The students' re-enactment of this event was described in some newspapers to be the hanging of an effigy of the Crown Prince of Thailand. Following this, an army radio station issued a call to "patriots", and right-wing vigilante and para-military groups laid siege to the University and used their guns against the students. It is officially estimated that more than 40 people were killed and several hundred wounded. Independent observers estimated that many more had been killed. The armed forces then intervened by overthrowing the civilian government and arresting the student demonstrators. According to government figures, more than 3,000 students were arrested; no arrests were made of those who took part in the attack on the students.

Political power after the coup of 6 October 1976 was held by the National Administrative Reform Council (N.A.R.C.), consisting of 24 generals. A civilian judge, Mr. Thanin Kravichien, was appointed Prime Minister. The new government began a process of release of the arrested students, until the government's case against the Thammasat student demonstrators finally became focused in a trial which has become known as "The Trial of the Thammasat 18".

The 18 defendants in this case were mainly university student leaders. Although they are all civilians, they are being tried before a military tribunal consisting of an Army Colonel, an Air Force General and a Navy Captain; the Navy Captain is a military attorney and the other two officers are not lawyers.

The decision of this military tribunal is not subject to judicial appeal to any other court.

Each defendant is liable to the maximum punishment of the death penalty.

The defendants were not allowed to appoint lawyers for their defence before the military tribunal, until a new government decree was issued on 8 November 1977 which allowed them to appoint lawyers for the remainder of their trial.

All the 18 defendants were indicted with ten offences; in addition, six of the defendants are charged with lese majeste. The central allegation in the indictment is that the defendants took part in a conspiracy "to conduct communist activities directly and indirectly aimed at overthrowing the democratic government, changing the administrative system to one without His Majesty the King as Head of State". The conspiracy was alleged to have been conducted "orally and through distributing leaflets" which criticized the government in such a way as to lead to public unrest. The defendants were also charged with inciting workers to strike. The specific charges included criminal offences under the Penal Code and relate to the Thammasat University Incident. On the charges of conspiracy to kill or attempting to kill government officers and others, the maximum penalty is death. Other charges included possession of firearms,

violently opposing and resisting government officers, and illegal entry and damage to property.

The trial before the military tribunal was authorized by the new government by two Decrees, No. 8 and No. 14, dated respectively 6 and 7 October 1976. The two Decrees retroactively imposed military jurisdiction for violations against the Anti-Communist Activities Act, whereby violations occurring before the imposition of martial law on 6 October 1976, were to be tried by military tribunals. The Thailand Association of Lawyers strongly protested in a petition to the Prime Minister against the retroactive imposition of military jurisdiction on the grounds that it violated the spirit and tradition of Thai law and the explicit provisions of the former Constitution and Legal Code. The military tribunal in this case rejected pleas by the defendants that they should be tried before a civilian court with right to counsel and appeal. It was not until November 1977 that the defendants were allowed lawyers to conduct their defence before the military tribunal, but it should be noted that the trial has continued nonetheless before the military tribunal and without provision for appeal.

It is the view of Amnesty International that the 18 defendants in this trial should be released on bail pending a new and fair trial before a civilian court, with right to counsel and to appeal. Moreover, the defendants should not be charged with alleged conspiracy conducted orally or through the distribution of pamphlets which were critical of the previous civilian government, insofar as they were non-violent and lawful under the 1974 Constitution which had force of law until the imposition of martial law on 6 October 1976.

Of those arrested in the Thammasat Incident, apart from the 18 in the trial described above, there is one other remaining prisoner who is on trial separately in a civilian court. The defendant, Boonchart Sathienthammani, is charged with lese majeste and is alleged to have insulted the Crown Prince of Thailand in the incident which the students claim re-enacted the hanging of the two students by policemen. Boonchart is not officially listed with the Thammasat defendants and it seems that he is being tried in a civilian court because he was arrested before the declaration of martial law. It is the view of Amnesty International that Boonchart should be released on bail pending the fair and prompt conclusion of his trial.

The third category consists of prisoners held under martial law Decree No. 22 which describes nine categories of persons as being "dangerous to society", six of which apply to criminal acts and three to political offences, described in vague terms. Under this Decree, the authorities have wide-ranging powers to arrest suspects and hold them indefinitely without trial. From May 1977, detainees held under Decree No. 22 were denied applications of habeas corpus to challenge allegations that they were "dangerous to society". Following the declaration of martial law on 6 October 1976, several

thousand people were arrested under Decree No. 22. The government claims that most of those arrested under Decree No. 22 have been released except for approximately 800 who remain in detention. Of these 800, the government claims that less than 100 are being held under the political provisions of Decree No. 22. It should be pointed out that a number of those Decree No. 22 prisoners who had been released have been subsequently re-arrested.

It is the view of Amnesty International that the government should make specific charges under the Penal Code against every prisoner held under Decree No. 22; those charged with criminal offences should be given prompt trials, and those held for political offences should be released, if necessary on bail should the government intend to place them on trial.

The fourth category includes people who were arrested in outlying provinces where the government is faced with the problem of armed insurgency. There have been cases of people arrested on suspicion of being communist insurgents or sympathizing with underground insurgency movements, when there is contrary evidence indicating that these prisoners had been arrested because of other political reasons. An example is the case of Udom Pka-krong and ten other men arrested in May 1976 in the southern province of Nakorn Sri Thammarat. They were accused of having taken part in an attack by communist insurgents on a military camp which resulted in the killing of 12 men including soldiers and civilian personnel. The prisoners deny any involvement in the insurgent attack and deny any connection with the insurgents; they claim that they had been actively critical of the local authorities and had in the past accused them of maladministration including corruption. They claim that they were being victimized by arrest on false charges, and that confessions were forced from several of them under torture and threat to their lives. The defendants insist that the charges against them have been fabricated. The trial originally began in the city of Nakorn Sri Thammarat and was subsequently transferred to the Bangkok Central Court, where hearings proceed at the rate of one day a week, with postponements.

It is the view of Amnesty International that the government should conduct a public inquiry into the allegations of torture against Udom Pka-krong and his co-defendants, and that the prisoners be released on bail pending the fair and prompt conclusion of their trials.

Another example in this category is the case of six men held in the Central Prison in the city of Nakorn Sri Thammarat who were arrested in November 1976 in the Poopli area near Surat Thani. There had ^{been} a military sweep in the area during which several local people were arrested by soldiers on suspicion of being involved with insurgents. A newspaper journalist was invited by the military authorities to interview ^{the} prisoners and he wrote an article in the newspaper, Thai Rath, describing the six prisoners as

insurgents captured by the military. The six prisoners, who had various occupations as agricultural labourers, maintain that they were engaged in normal activities at the time of the military sweep in the area, and they vigorously deny any connection with underground insurgents. They claim that they had never been interrogated for alleged connection with communist insurgents, and moreover no steps had been taken to put them on trial. It seemed that their "capture" by the military had been with the purpose of presenting the prisoners as a tangible outcome of a military operation, and no attempt has been made to justify their arrest or continued detention to prove allegations made against them.

It is the view of Amnesty International that these and other "suspects" arrested and detained in areas where military operations are conducted, should be released, unless specific charges can be made against them and proved in fair and prompt trials to show that they had been involved in violent criminal activities or they had supported an armed insurgency movement.

A further example in this category involves "re-education" of people who were rounded up by the military in areas considered to be characterized by insurgent activity, the people rounded up being held for varying periods in so-called "Democracy Training Schools".

An example is the Democracy Training School at Ban Chai in Nakorn Sri Thammarat Province. Groups of people numbering 300 or more were taken from particular localities, usually groups of villages, and held in the ~~centers~~ for varying periods of approximately three months, during which time they were described to be given lectures in democracy and Thai national institutions. The average stay of these people at the ~~centers~~ is between two to four months. Although there are no indications of brutal physical treatment at the ~~centers~~, it is clear that those who undergo periods held in such centres are there because of compulsion by the local authorities.

It is the view of Amnesty International that enforced detention of groups of people for the purposes of "re-education" should not be used as an excuse for in fact detaining people, even over relatively short periods of time, when this is done compulsorily and without legal justification. It is the view of Amnesty International that the government should ensure that such "Democracy Training Schools" and centres of this kind should admit people only with their consent and without compulsion or threat of punishment.

Finally, at a more general level, it should be recalled that following the military coup of 6 October 1976, all political parties and political gatherings were banned. After a period when all daily newspapers were banned, they were subsequently allowed to publish subject to close censorship. Since then, every major newspaper has been closed

temporarily at least once for publishing news or comment considered damaging to the government. Small journals representing independent views continue to be banned. The police have confiscated and burned books and literature considered to be pro-communist. Although a number of journalists were arrested after the military coup, they were subsequently released. Thai journalists explain the government's use of the threat of temporary closure of newspapers has such severe effects on the financial survival of individual newspapers that journalists have to exercise "self-censorship".

The government has suppressed trade union activity by banning strikes and other forms of demonstrations by workers, and those who are alleged to have ignored the ban have been subjected to arrest under Decree No. 22. Subsequently, the government banned labour union organizations from all state enterprises.

The martial law decrees provide for serious violations of human rights. The effect of Decree No. 22 has been to allow the government to arrest large numbers of people, and to hold political prisoners without trial. The effect of Decree No. 8, which revived the Anti-Communist Activities Act of 1952, provides a definition of communist activities which is so imprecise as to include "advocating doctrines leading to communism", and gives the military authorities the power to arrest and detain people without warrant or charges, and also applying retroactively to alleged offences committed before the imposition of martial law.

Following the October coup, a new Constitution was promulgated which included an Article (No. 21) which gave the Prime Minister, subject to the approval of the Cabinet and the Advisory Council, the power to order the summary execution of offenders without trial where the Prime Minister "deems it necessary for the prevention of suppression of an act subverting the security of the Kingdom, the Throne, the national economy or State affairs or disturbing or threatening public order or good morals, or ... public health". This power has been used on at least nine occasions to execute summarily persons accused of murder, rape and smuggling, and in one case a military General who failed in his coup attempt in March 1977. The Article was invoked to sentence without trial 18 others involved in the coup, to varying periods of imprisonment.

It is the view of Amnesty International that the government should annul martial law Decrees Nos. 8, 14 and 22, and that Article 21 should be withdrawn from the Constitution.