

# THE BIG INTERVIEW

**112WATCH** interviews Sunai Phasuk, senior researcher on Thailand in Human Rights Watch's Asia Division, on the role of his organisation vis-a-vis the problem of Article 112.

**112WATCH:** What is the current lese-majeste situation in your opinion?

**Sunai:** Successive Thai governments, including those popularly elected, have made lese-majeste prosecutions a top priority for their administration. Under Prime Minister General Prayuth Chan-ocha, over 200 people have been charged under Article 112 in relation to various activities undertaken at democracy protests or comments made on social media. Thailand's lese-majeste law is vague and overly broad, and the harsh criminal sanctions are neither necessary nor proportionate to protect the monarchy or national security. Human Right Watch (HRW) shares concerns with the UN human rights experts (<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26727&LangID=E>) that a draconian repressive law such as Article 112 has no place in a democratic country. HRW is deeply disturbed by the growing number of lese-majeste prosecution and harsh prison sentences the courts in Thailand have meted out to some defendants. I must emphasise that The International Covenant on Civil and Political Rights (ICCPR), which Thailand ratified in 1996, protects the right to freedom of expression. General Comment 34 of the Human Rights Committee, the international expert body that monitors compliance with the covenant, states that laws such as those for lese-majeste "should not provide for more severe penalties solely on the basis of the identity of the person that may have been impugned" and that governments "should not prohibit criticism of institutions."

**112WATCH:** What is the role of Human Rights Watch in alleviating the worsening situation?

**Sunai:** HRW urges Thai authorities to permit peaceful expression of all viewpoints, including questions about the monarchy. The authorities in Thailand should engage with the UN experts and others about amending the lese-majeste law to bring it into compliance with international human rights standards. In particular, HRW recommends that Article 112 be amended to preclude private parties from bringing complaints of lese-majeste, since no private harms have occurred. Doing so will prevent the use of the law for political purposes. The police, public prosecutors, courts, and other state authorities appear reluctant to reject allegations of lese-majeste out of concern they too might be accused of disloyalty to the

monarchy. Judicial interpretation of lese-majeste offenses also seems to vary according to interpretations by different courts, making convictions arbitrary and sometimes going beyond what is stipulated in the law. Thai authorities often hold critics of the monarchy in pretrial detention for months in lese-majeste cases.

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**112WATCH:** What are the major concerns in relation to the many lese-majeste cases?

**Sunai:** Holding those charged with lese-majeste in pretrial detention violates their rights under international human rights law. The ICCPR encourages bail for criminal suspects. Article 9 states, "It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial." The minimum sentence and reduce the maximum sentence for violations of Article 112 should be abolished. Thai authorities should also make clear that those charged with lese-majeste are entitled to bail. HRW believes that those whose charges have not been dropped should be tried without undue delay. In the meantime, all investigations that violate the rights to freedom of expression, association, or assembly should also be dropped.



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**112WATCH:** In your view, how has the international community reacted to the lese-majeste situation in Thailand?

**Sunai:** Human rights concerns related to Article 112 have received international attention, especially during the UN Human Rights Council's Universal Periodic Reviews. But the problem is Thai authorities have stonewalled such concerns. Another important challenge is how to sustain international concerns in the face of deteriorating regional situations, such as Myanmar, that have distracted attention away from Thailand. In addition, foreign counterparts of Thailand see that issues related to Article 112 are politically sensitive and often draw strong reactions. Hostilities towards comments by human rights groups, such as HRW, as well as foreign governments and the UN are common, saying that such interventions amount to attempts to undermine the status of Thailand's monarchy to the least and to the worst as attempts to trigger a regime change. These reactions can be found in every corner of the society and appear to have no limits to specific political and socio-economic status. After the 2014 coup, and notably in response to the youth-led democracy uprising, criticisms of Article 112 have been suppressed and treated as a taboo. But arguing that the law and its harsh enforcement is essential due to the country's uniqueness does not absolve Thailand's international legal and human rights obligations to respect the right to freedom of opinion and expression. Thailand will continue to face international condemnation

until there are serious initiatives to amend the lese-majeste law and reform its enforcement.



**Sunai Phasuk**, senior researcher on Thailand in Human Rights Watch's Asia Division