Protests and Pandemics: Civil Society Mobilisation in Thailand and the Philippines during COVID-19

Policy Briefing – SEARBO2

Australian National University

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Introduction

COVID-19 has led to the use of emergency powers that shrink civic space globally.[1] Southeast Asia is no exception. Yet, emergency powers have varying effects in controlling the pandemic and civil societies have also responded to such constraints differently. Moreover, there are few detailed studies that examine the implications of broadened emergency powers for human rights defenders and democracy activists during COVID-19.[2] This policy brief tackles the issue by drawing from two country contexts from Southeast Asia — Thailand and the Philippines. It analyses the influence that emergency powers have in shaping civil society activism. It further compares and contrasts these two countries by highlighting:

1. How emergency powers create diverging outcomes in managing the pandemic.

2. How civil society activism shapes and is shaped by national pandemic response.

In the Philippines, a national pandemic response that prioritises eliminating security and political threats has failed to control the pandemic. As we discuss below, emergency powers serve to quash pro-democracy and human rights groups. This is worsened by pre-existing domestic policies that have already targeted human rights defenders prior to the pandemic. In contrast, the emergency powers in Thailand introduced a nation-wide lockdown that helped manage the first COVID-19 outbreak. The control of COVID-19 in turn increased political opportunities for mass mobilisation in 2020. Nevertheless, the existing repressive legal instruments and practices along with the emergency powers have acted to quell mass movement in the streets.

Drawing on comparative analysis, we show that ongoing suppression in the Philippines provides significant insights for civil society actors in Thailand, who are increasingly met with constraints imposed by repressive rules and regulations, and ongoing COVID-19 outbreaks. Our findings further illustrate that civil society actors in both countries operate in a complex landscape where different forms of state repression, enabled by the health crisis, are also facilitated or even legitimised by growing involvement of illiberal civil society groups.[3] In addition, civil society actors have turned to community-based survival strategies to mitigate state failures in the pandemic response. However, the overemphasis on such initiatives serves to absolve governments from responsibility and accountability in effective pandemic response.

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1 See Felix S Bethke and Jonas Wolff, "Covid-19 and Shrinking Civic Spaces: Patterns and Consequences," *Zeitschrift für Friedens-und Konfliktforschung* 9 (2020).

2 Serina Rahman, "Overcoming the Odds and Filling the Gaps: Malaysian Civil Society Responses to Covid-19," *Perspective* 44 (2020); Nicola Nixon, *Civil Society in Southeast Asia During Covid-19: Responding and Evolving under Pressure* (San Francisco: Asia Foundation, 2020).

3 See further, Janjira Sombatpoonsiri, "From Repression to Revolt: Thailand's 2020 Protests and the Regional Implications," *GIGA Focus Asia,* no. 1 (2021): 4.

This policy brief analyses civil society activism around human rights and democracy in Thailand and the Philippines over four sections. The first section sets the scene by providing the overview of COVID-19 pandemic in Thailand and the Philippines. It is followed by a comparative analysis of emergency powers in the second section. The third section captures civil society advocacy around, and responses to, emergency powers in the two countries from early 2020 onwards. The fourth, concluding section outlines the findings of the comparative study and discusses the adaptation of civil society actors to ongoing challenges. This adaptation can potentially generate new opportunities for advocacy in a restricted civic space.

1. A Tale of Two Pandemics

Thailand became the first country outside of China to report COVID-19 on 13 January 2020 after a Wuhan resident had earlier travelled through Bangkok.[4] New locally transmitted cases started on 31 January 2020. At first, the government appeared incompetent as it refused to close the door to foreigners, especially Chinese tourists during the Lunar New Year in early February.[5] Cases continued to spread from February onwards and spiked by mid-March involving clusters at military-run Thai boxing events and gatherings in downtown Bangkok.[6] By the end of March, 60 of 77 provinces were plagued with COVID-19. COVID-19 cases remained below 5,000 for the most part in 2020.

The second outbreak started in December 2020. Prior to the New Year, confirmed cases remained around 5,000 but drastically increased to more than 27,000 by March 2020. New infections were associated with clusters in fresh markets in Samut Sakhon where migrant workers are employed and crowdedly live as well as gambling dens in Thailand's eastern provinces. While the second wave of COVID-19 became largely contained in the affected areas, the country was hit with a third wave in April 2021 with clusters found among entertainment centres in Bangkok. Cases spiked and rapidly spread across the nation. Daily infections exceeded 2,000, bringing the total of 57,508 confirmed cases and 148 deaths as of 26 April 2021.[7] The figure rapidly rose to more than 415,000 by July 2021. The third wave of the pandemic is the most serious the country has seen and it is unclear when it will be brought under control. In comparison to Thailand, the Philippines never experienced waves of outbreak but has seen a continuous surge since the first case was reported on 20 January 2020. In June 2021, the Philippines had more than 1.2 million confirmed cases and 22,000 deaths.

The pandemic has severely disrupted economic growth in both Thailand and the Philippines. The Thai economy shrank by 6.5 percent in 2020. The World Bank further indicated that the economic recovery would take two more years. The Prayut Chan-ocha administration also incurred a budget deficit annually, accumulating over $63 million in public debt.[8] To reverse the devastating economic impact, the government

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4 WHO, "Thailand: How a Strong Health System Fights a Pandemic," accessed April 29, 2021. https://www.who.int/docs/default-source/coronaviruse/country-case-studies/thailand-c19-case-study-20-september.pdf?sfvrsn=d5534183_2&download=true

5 Masayuki Yuda, "Thailand Keeps Doors Open to Chinese Tourists" *Nikkei Asia,* February 10, 2020. https://asia.nikkei.com/Spotlight/Coronavirus/Thailand-keeps-doors-open-to-Chinese-tourists

6 Thairath, "Army Chief Dismisses Lumpini Boxing Stadium Board," *Thairath*, June 4, 2020. https://www.thairath.co.th/sport/others/1861228

7 Thai PBS, "Tougher Measures Ahead for Bangkok and 5 Other Provinces as 2,048 New Covid-19 Cases Are Recorded Today," *Thai PBS*, April 26, 2021. https://www.thaipbsworld.com/tougher-measures-ahead-for-bangkok-and-5-other-provinces-as-2048-new-covid-19-cases-are-recorded-today/

8 Thitinan Pongsudhirak, "Democracy and Monarchy in Thailand: Reconciliation or Reckoning?," *SAIS Review of International Affairs* 40, no. 2 (2020): 20.

approved the largest stimulus package in history, amounting to 1.9 trillion baht (US$59.7 billion).[9] It introduced a three-month 5,000-baht cash handout program for people affected by the pandemic. The online registration process, however, reveals serious limitations. To be specific, 28.8 million people in total requested the cash relief but only 13.4 million people qualified.[10] Similarly in the Philippines, the economy shrank by 9.5 percent in 2020, which is its biggest contraction in history.[11] The economic downturn was also caused by the mass return of overseas Filipino workers (OFWs) whose contribution will shape the country's prospects for long-term recovery given prolonged international travel restrictions. To support its economic response, the Philippine Government has accessed close to $5.8 billion in new loans from the Asian Development Bank, Asian Infrastructure Investment Bank and World Bank.[12] In June 2020, the Philippine government approved the use of 4.1 trillion pesos from the national budget until December 31, 2021.[13]

The Pandemic Sub-National Reference Laboratory at the Jose B. Lingad Memorial Regional Hospital in San Fernando City, Pampanga on 9 May 2020. Image by Asian Development Bank on Flickr. (CC BY-NC-ND 2.0)

9 ILO, *Covid-19: Impact on Migrant Workers and Country Response in Thailand* (3 July 2020) (Bangkok: ILO, 2020), 9.

10 Thai PBS, "13.4 Million Thais Will Have Received 5,000 Baht Cash Subsidy by Next Week," *Thai PBS*, May 7, 2020. https://www.thaipbsworld.com/13-4-million-thais-will-have-received-5000-baht-cash-subsidy-by-next-week/.

11 Aljazeera, "Philippine Economy Shrank at Record Pace in 2020, Outlook Gloomy," *Aljazeera,* 28 January, 2021. https://www.aljazeera.com/economy/2021/1/28/philippine-economy-shrank-at-record-pace-in-2020-outlook-gloomy.

12 Department of Foreign Affairs and Trade, "The Philippines Covid-19 Develpment Response Plan," accessed April 29, 2021. https://www.dfat.gov.au/publications/development/philippines-covid-19-development-response-plan

13 Pia Ranada, "Duterte Signs Laws Extending Bayanihan 2 Funds, 2020 Budget," *Rappler*

The economic downturn during COVID-19 affected the most vulnerable populations, especially households and individuals of lower socio-economic backgrounds in both countries. The World Bank estimates at least 8.3 million workers in Thailand will lose their jobs and income due to COVID-19.[14] The most affected groups are the middle-class and the poor, employed especially in the tourism, services and informal sectors. The pandemic exacerbates existing poverty, which has already been on the rise. The number of people living with poverty increased from 4.85 million to more than 6.7 million between 2015 and 2018 — the period that overlapped with the junta rule (see Section 2.2 for details on the coup).[15] Furthermore, the World Bank projected that number would increase to 9.7 million people in 2020.[16] Business closures during the pandemic also impacted both Thai citizens and migrant workers. Thai workers experienced job losses, and reduced income and work hours, and as many as 700,000 out of 2.8 registered migrant workers in Thailand were the first to lose their jobs. Migrants in Thailand are often excluded from social services and benefits such as the aforementioned cash relief program.[17] The third wave of COVID-19 also spread in prison clusters, infecting more than 17,000 inmates and exposing issues surrounding overcrowded facilities and heath welfare among prisoners in Thailand.[18]

Similar impacts can also be observed in the Philippines. Filipino urban slum dwellers, women, girls and health care workers continue to bear the brunt of the pandemic. Based on existing data, almost 20% of all those infected in the country are health workers.[19] Approximately 41 percent of the total number of confirmed cases and 39 percent of deaths are from the National Capital Region (NCR), where densely populated Manila is located.[20] Based on WHO classification, there remains large-scale or Stage 3 community transmission in the NCR due to ongoing increases in cases and heightened transmission.[21] This compares to nationwide trends in the Philippines that place the rest of the country at Stage 2 with lower cases and transmission rates.

January 6, 2021. https://www.rappler.com/nation/duterte-signs-laws-extending-bayanihan-recover-as-one-act-funds-2020-budget

14 World Bank, *Thailand Economic Monitor: Thailand in the Time of Covid-19* (Washington, DC: World Bank Group, 2020), 24.

15 World Bank, *Taking the Pulse of Poverty and Inequality in Thailand* (Bangkok: World Bank Group, 2020), 5.

16 World Bank, *Thailand Economic Monitor: Thailand in the Time of Covid-19*, 24.

17 ILO, Covid-19: *Impact on Migrant Workers and Country Response in Thailand* (3 July 2020).

18 Wannaphong Durongkaveroj, "Thailand's Covid-19 Prisons Outbreak: Time for an Early Release?," *New Mandala,* May 26, 2021. https://www.newmandala.org/thailands-covid-19-prisons-outbreak-time-for-an-early-release/

19 UN Office for the Coordination of Humanitarian Affairs, "Philippines COVID-19 Humanitarian Response Plan (May 11, 2020 Revision)," accessed April 29, 2021. https://reliefweb.int/report/philippines/philippines-covid-19-humanitarian-response-plan-may-11-2020-revision

20 WHO, "COVID-19 in the Philippines Situation Report 71," accessed April 29, 2021. https://www.who.int/philippines/internal-publications-detail/covid-19-in-the-philippines-situation-report-71

21 Philippine Department of Health, "Updates on Novel Coronavirus Disease (COVID-19)," accessed July 3, 2021. https://doh.gov.ph/2019-nCoV.

During the initial phase of the COVID-19 pandemic, approximately 4 million Filipinos lost their jobs and livelihoods while the national government incurred trillions of dollars in foreign debt. These figures do not account for the cumulative economic losses as globally, thousands of OFWs lost jobs and had to return home while many others who are scheduled for deployment overseas were put on hold due to border closures. The Philippine economy has been historically dependent on migrant remittances as a 'shock absorber' or 'safety net' for families and the state in times of crisis. COVID-19, however, resulted in the repatriation of more than 400,000 overseas Filipino OFWs.[22] The above survey of COVID-19's impact on both the Philippines and Thailand shows that the pandemic exacerbates existing inequality and creates additional crises, especially for the poorest in society.

Slum dwellers on the Philippine National Railways in Manila. Image by Koumosu on Wikimedia Commons (CC BY-SA 3.0)

22 Ferdinand Patinio, "Over 400k Displaced OFWs Repatriated: DOLE," *Philippine News Agency*, January 28, 2021. https://www.pna.gov.ph/articles/1128754

2. Comparative Analysis of Emergency Powers during COVID-19

2.1 COVID-19 Emergency Powers

The Thai and Philippine governments enacted emergency powers to control the outbreak of COVID-19. On 25 March, Thailand's Prime Minister Prayut declared a state of emergency (Emergency Declaration 2020), using Section 5 of the Emergency Decree on Public Administration in Emergency Situation B.E. 2548 (2005). This decree came into effect on 26 March 2020, bringing all provinces under the emergency power and transferring authority from Ministers to Prayut himself.[23] The Emergency Declaration prohibited entry into risky areas; closed public facilities such as massage parlours, gyms, markets and shopping malls; shut the border; prohibited profiteering of necessary goods such as food, medicine and drinking water; banned public assembly and forbid dissemination of fake news.[24]

Emergency powers have also been used to manage the pandemic in the Philippines. President Rodrigo Duterte signed Proclamation No. 929 on 16 March 2020, which placed the country under a state of calamity for six months due to COVID-19. The 'state of calamity' rhetoric prioritises state security and affords the state extraordinary powers to mobilise resources nationally, as well as to seek and accept international assistance. Placing the country in a state of calamity is not exceptional in the Philippines, where mega-disasters have occurred routinely. However, this specific proclamation allowed the National Government and local government units unprecedented discretion to utilise appropriate funds in their disaster preparedness and response efforts to contain the spread of COVID-19.[25] Intercity and inter-province travel was restricted, and domestic air travel remains limited for an indefinite period. Different and ongoing curfews and quarantine measures were put in place around the country, varying by region and set by local government units.[26] As the disease outbreak spread nationwide and there was a clamour for improved responses from the government, the Bayanihan To Heal As One Act was passed on 25 May 2020.[27] This

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23 Khemthong Tonsakulrungruang, "Thailand's Experience of Emergency Powers in Response to Covid-19," accessed April 29, 2021. https://law.unimelb.edu.au/__data/assets/pdf_file/0005/3475013/MF20-Web1-Thailand-FINAL.pdf.

24 For the full list of emergency declarations, see https://www.tosh.or.th/covid-19/index.php/announce

25 Maria Ela L Atienza, "Emergency Powers and Covid-19: The Philippines as a Case Study " accessed April 29, 2021. https://law.unimelb.edu.au/__data/assets/pdf_file/0011/3474344/MF20-Web1-Philippines-Ela-FINAL.pdf

26 ACT Alliance, "Critical Voices of Civil Society Organisations Suppressed in the Philippines," accessed April 29, 2021. https://reliefweb.int/report/philippines/critical-voices-civil-society-organisations-suppressed-philippines

27 Atienza, "Emergency Powers and Covid-19: The Philippines as a Case Study "; Maria Ela L Atienza et al., *Constitutional Performance Assessment in the Time of a Pandemic: The 1987 Constitution and the Philippines' Covid-19 Response. International Idea Discussion Paper* 3/2020 (Stockholm and Quezon City: International Institute for Democracy and Electoral Assistance

Act gave the President temporary emergency powers for the pandemic response and was extended in June 2020 under Bayanihan 2. This law includes plans to implement the largest social protection program in Philippine history such as cash grants to 18 million low-income families.[28] It authorised the use of funds worth over US$4 billion (equivalent to 1.1 percent of the country's Gross Domestic Product) with the largest part being the provision of emergency subsidies.[29]

Both Thailand and the Philippines created inter-agency task forces to coordinate pandemic response efforts and empower security forces during the pandemic. In Thailand, the Centre for the Administration of the Situation due to the Outbreak of the Communicable Disease Coronavirus 2019 (COVID-19) was established under the Ministry of Interior in March 2020. The Centre comprises twenty-eight members, including prime ministers, deputy ministers, ministers, National Security Council secretary, police chief and commander in chief of Thai armed forces. The taskforce is in charge of setting policies and measures for responding to the pandemic and coordinating with provincial governors. The composition of the taskforce suggests that the Thai government considers the pandemic a national security issue and Prayut himself is also familiar with using absolute power, previously bestowed to him by Article 44 of the interim constitution during the junta rule. Moreover, the role of the military in pandemic response was extended to facilitating surveillance of citizens.[30] The military has also been mobilised to set up state quarantine, and in the third COVID-19 outbreak, expanded to field hospital facilities and patient transport.[31] However, this does not mean the military has complete control over medical professionals whose technocratic competence is arguably still highly valued.[32] For instance, the taskforce also emphasises the role of medical workers in combating the pandemic as a physician was appointed as a principal spokesperson for daily communication.[33]

In the Philippines, the army and security forces dominate national taskforces. The Inter-Agency Task Force on Emerging Infectious Diseases convened in January 2020, and as a policymaking body, came up with a National Plan of Action to manage

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(International IDEA) and University of the Philippines Center for Integrative and Development Studies (UP CIDS), 2020).

28 Department of Foreign Affairs and Trade, "The Philippines COVID-19 Development Response Plan".

29 Yoonyoung Cho et al., *The Impact of the Covid-19 Pandemic on Low Income Households in the Philippines : Impending Human Capital Crisis. Covid-19 Low Income Hope Survey;*Note No. 3 (Washington DC: World Bank Group, 2021).

30 Piyapong Boossabong and Pobsook Chamchong, "Coping with COVID-19 in a Non-Democratic System: Policy Lessons from Thailand's Centralised Government," *International Review of Public Policy* 2, no. 2:3 (2020): 366.

31 WHO and Ministry of Public Health, *Joint Intra-Action Review of the Public Health Response to Covid-19 in Thailand* 20-24 July 2020 (Thailand: WHO, 2020), 22.

32 Boossabong and Chamchong, "Coping with COVID-19 in a Non-Democratic System," 366.

33 Supalak Ganjanakhundee, "COVID-19 in Thailand: The Securitization of a Non-Traditional Threat," *Perspective* 2020, no. 51 (2020): 5.

the spread of COVID-19. In addition, the National Task Force Against COVID-19 was created, serving as an operational command in day-to-day operations in the areas of human resources, logistics and finance.[34] In contrast to the Thai taskforce, it is headed by retired army general Delfin Lorenzana, who is also currently serving as Department of Defense Secretary. The taskforce also comprises predominantly retired generals and ex-military personnel including a man dubbed the 'vaccine czar', signalling a strongman to lead the implementation of the government's response. Indeed, the President has maintained that the military is best placed to lead the pandemic response because they excel in 'logistics'.[35] Moreover, a separate Joint Task Force COVID-19 led by the police with personnel from the armed forces, coast guard and Bureau of Fire protection, was set up to enforce quarantine rules and border checkpoints. Thus, in both the Philippines and Thailand, the government has heavily relied on emergency powers to respond to the pandemic.

Implementing a Rapid Emergency Supplies Provision (RESP) Assistance to Design a Sustainable Solution for COVID-19 Impact Areas in the National Capital Region. Image by Eric Sales/ Asian Development Bank on Flickr (CC BY-NC-SA 2.0)

34 Presidential Communications Operations Office, "Inter-Agency Task Force for the Management of Emerging Infectious Diseases (IATF-Eid) Virtual Presser with Cabinet Secretary Karlo Alexei Nograles, Department of Interior and Local Government Secretary Eduardo Año and [Via Skype] Department of Health Undersecretary Maria Rosario Vergeire," accessed May 28, 2021. https://pcoo.gov.ph/press-briefing/inter-agency-task-force-for-the-management-of-emerging-infectious-diseases-iatf-eid-virtual-presser-with-cabinet-secretary-karlo-alexei-nograles-department-of-interior-and-local-government-secretar/.

35 Azer Parrocha, "Ex-Generals Best People to Lead Covid Response, Palace Insists," *Philippine News Agency,* March 23, 2021. https://www.pna.gov.ph/articles/1134594

2.2 Emergency Powers and Human Rights Violations

In Thailand, COVID-19 emergency powers were introduced amidst the latest intensification of authoritarianism. The military junta — National Council for Peace and Order (NCPO) — overthrew the democratically elected government on 22 May 2014 and ruled the country until 19 July 2019. During its rule, democracy and human rights in Thailand deteriorated as the junta clamped down on political expression and dissents. Political activists who campaigned against the coup could be arrested and taken into military custody without charges. Critics of the state were also summoned for an 'attitude adjustment'. From 2014 to 2017, at least 90 people were charged with the lèse majesté law (Article 112 of the Penal Code), 58 with sedition and 254 with contravening a ban on public gathering of five or more people (see Section 3.1 for the parallel with the student-led protest).[36] In 2018, the National Human Rights Commission of Thailand reported that over 90 percent of human rights violations, including torture and forced disappearance, were committed by state officials.[37]

The 2019 general elections did little to change the authoritarian landscape. The NCPO was dissolved when the new cabinet was sworn into office in July 2019. However, as explained by Surachart Bamrungsuk, the election became an instrument to preserve repressive rules and create political legitimacy for the Thai authoritarian regime.[38] For instance, the new Constitution that was written by the junta and adopted in 2017 mandates that 250 senators be appointed upon the advice of NCPO and be given power to select a prime minister. With such political engineering, it is unsurprising that the coup leader, ex-general Prayut Chan-ocha became Thailand's prime minister again. In another example, the 20-year National Strategy adopted by the junta in 2018 puts restriction on subsequent governments by preventing them from introducing policies that diverge from the National Strategy. This further suggests that the NCPO could maintain its role for the next 20 years despite its dissolution.[39]

The Emergency Decree introduced during COVID-19 in Thailand has been criticised by human rights non-government organisations for targeting citizens who are critical of state policies. The law was legislated during the Thaksin Shinawatra administration in 2005 to deal with Muslim Malay insurgencies in Southern Thailand. Under the decree, a suspect believed to cause public panic and harm state security can be subject to detention without charge for up to thirty days and authorities are also granted immunity for exercising their power.[40] The Emergency Decree provided the legal basis

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36 Tyrell Haberkorn, "Court vs. Crown in Thailand," *Dissent,* Spring 2017. https://www.dissentmagazine.org/ article/court-crown-thailand-military

37 Pratch Rujivanarom, "State Officials behind 90% of Rights Violations," *The Nation,* December 11, 2018. https://www.nationthailand.com/in-focus/30360204.

38 Surachart Bamrungsuk, "The Development of the Hybrid Regime: The Military and Authoritarian Persistence in Thai Politics," in *Routledge Handbook of Contemporary Thailand,* ed. by Pavin Chachavalpongpun, (New York: Routledge, 2020), 97-98.

39 Ibid.

40 Rungrawee Chalermsripinyorat, "Dialogue without Negotiation: Illiberal Peace-Building

for the COVID-19 response. Human Rights Watch criticised the Decree for providing a pretext to suppress critics. It further reported that authorities used the Emergency Decree together with other repressive legal instruments such as the Computer Crimes Act to target activists and citizens.[41] For instance, police arrested Danai Ussama in Phuket, who was charged with violating Section 14(2) of Computer-Related Crime Act on 23 March for entering false information into a computer that may cause the public to panic. The arrest was made in response to his complaint that upon his return from Barcelona, he and other passengers did not have to undergo any COVID-19 screening at the Suvarnabhumi Airport.[42] If convicted, he could be subject to imprisonment for up to five years and a fine of up to 100,000 baht (US$3,050). In addition to Danai's case, whistle-blowers reporting alleged corruption linked to the hoarding of surgical masks were faced with intimidation and retaliatory lawsuits under the Computer Crime Act.[43] In another instance, a medical personnel who raised concerns about the severe shortage of surgical masks was found threatened with disciplinary action and revocation of medical license.[44] Furthermore, any pro-democracy protesters can be charged with violating the Emergency Decree because public gatherings under emergency, and hence during the pandemic, are prohibited and deemed in violation of the Communicable Disease Act.

In comparison to Thailand, state-sanctioned violence predates the pandemic and now forms part of the schema of daily life for many Filipinos. The United Nations (UN) High Commissioner for Human Rights points out that the government's response significantly relies on 'threats of martial law, the use of force by security forces in enforcing quarantines and the use of laws to stifle criticism'.[45] As soon as Duterte was elected, he instigated a war on drugs which deployed death squads. The war on drugs has been reasonably believed to account for crimes of murder, torture, and the infliction of serious physical injury and mental harm, based on report findings from the International Criminal Court.[46]

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in Southern Thailand," *Conflict, Security & Development* 20, no. 1 (2020): 76.

41 Human Rights Watch, "Thailand: State of Emergency Extension Unjustified," accessed April 29, 2021. https://www.hrw.org/news/2020/05/27/thailand-state-emergency-extension-unjustified#

42 Thai Lawyers for Human Rights, "Artist Arrested for Posting "Suvarnabhumi Airport Has No Screening for Covid-19" While in 14-Day Self-Quarantine after His Return from Spain," accessed April 29, 2021. https://tlhr2014.com/en/archives/16636

43 Human Rights Watch, "Thailand: COVID-19 Clampdown on Free Speech," accessed April 29, 2021. https://www.hrw.org/news/2020/03/25/thailand-covid-19-clampdown-free-speech.

44 Khaosod Online, "Trending #saveDrOat Critizing Government on Little Ghost, Asking Is It Wrong to Speak the Truth?," *Khaosod Online*, March 6, 2020. https://www.khaosod.co.th/special-stories/news_3701435.

45 UN Human Rights Council, "Report of the United Nations High Commissioner for Human Rights (Situation of Human Rights in the Philippines). 29 June. A/Hrc/44/22," accessed April 29, 2021. https://www.ohchr.org/Documents/Countries/PH/Philippines-HRC44-AEV.pdf.

46 International Criminal Court, "Report on Preliminary Examination of Activities 2020,"

It has also been argued that the drug war resembles the eight stages of genocide.[47] The death toll from the drug war since July 2016 ranges from a conservative estimate of 8,663 people, according to the UN Human Rights Council (2020), to possibly thrice as high based on statements from the Philippine Commission on Human Rights.[48] In the period of two months from April to July 2020 alone, data further indicates that extrajudicial killings registered a 50 percent increase.[49] Human rights activists and lawyers have been included in the long list of groups targeted in extrajudicial killings. Data being collected by independent groups show that there have been "at least 61 lawyers killed under the 5 years of Duterte. In contrast, 49 lawyers were killed in a span of 44 years from Marcos to former president Benigno 'Noynoy' Aquino, Duterte's predecessor."[50] Many lawyers face or have been threatened with criminal charges themselves as reprisal for pursuing human rights cases.[51] As well as criticising extrajudicial killings, some suggest that the Philippines' quarantine policy, which is among the most stringent in Southeast Asia, causes human rights violations. People were strictly told to stay 'indoors' despite many lacking basic housing and access to livelihoods, especially in Metro Manila. Duterte has authorised the detention of quarantine offenders and publicly ordered law enforcers to 'shoot troublemakers dead'.[52] There have also been reports of curfew violators being abused, illegally arrested, and detained such that, in one province, they were locked up in dog cages.[53] As Atienza et al. point out, based on media reports, the poor were disproportionately

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accessed June 5, 2021. https://www.icc-cpi.int/itemsDocuments/2020-PE/2020-pe-report-eng.pdf

47 The eight stages are classification, symbolization, dehumanization, organization, polarization, preparation, extermination and denial. See further, Dahlia Simangan, "Is the Philippine 'War on Drugs' an Act of Genocide?," *Journal of Genocide Research* 20, no. 1 (2018).

48 Council, "Report of the United Nations High Commissioner for Human Rights (Situation of Human Rights in the Philippines). 29 June. A/Hrc/44/22".

49 Carlos H Conde, "Killings in Philippines up 50 Percent During Pandemic," accessed April 29, 2021. https://www.hrw.org/news/2020/09/08/killings-philippines-50-percent-during-pandemic

50 Lian Buan, "Lawyers Killed: 61 under Duterte, 49 from Marcos to Aquino," *Rappler,* March 15, 2021. https://www.rappler.com/nation/lawyers-killed-duterte-marcos-aquino-administrations-data-studies; Conde, "Killings in Philippines up 50 Percent During Pandemic". See for similar examples of Drug War databases, Dahas. https://dahas.upd.edu.ph/ and Investigate PH https://www.investigate.ph/

51 UN Human Rights Council, "Report of the United Nations High Commissioner for Human Rights (Situation of Human Rights in the Philippines). 29 June. A/Hrc/44/22".

52 SunStar Manila, "Duterte Orders: Shoot Troublemakers Dead," *SunStar Manila,* April 1, 2020. https://www.sunstar.com.ph/article/1850972/Manila/Local-News/Duterte-orders-Shoot-troublemakers-dead

53 Atienza et al.*, Constitutional Performance Assessment in the Time of a Pandemic: The 1987 Constitution and the Philippines' Covid-19 Response. International Idea Discussion Pape*r 3/2020. See also Human Rights Watch, "Philippine Children Face Abuse for Violating Covid-19 Curfew," accessed April 29, 2020. https://www.hrw.org/news/2020/04/03/philippine-children-face-abuse-violating-covid-19-curfew#

impacted by these punitive measures. The extrajudicial killings and strict COVID-19 measures severely impact the broader context of political participation and dissent.[54] As discussed further in Section 3, the intensification of state repression and violence seeks to limit, if not altogether close off, civic participation and deliberation.

2.3 Emergency Powers and Diverging Pandemic Trajectories

Despite the imposition of emergency decrees and the involvement of security officials in COVID-19 responses in both Thailand and the Philippines, the pandemic exhibited drastically different trajectories in each country in 2020. In Thailand, COVID-19 was under control; the opposite was true in the Philippines. As demonstrated further in this section, this generates varying political opportunities for civil society groups. The highly centralised pandemic response in Thailand was effective for controlling the first wave of COVID-19.[55] The World Health Organization also attributed Thailand's success in handling the pandemic to significant investment in public health infrastructure since the 1980s and universal health coverage in 2002.[56] Thailand reported no confirmed local transmissions after two months of the emergency powers being in effect and new cases were associated with returnees in quarantine. From January to July 2020, the country only saw 3,227 infections and 58 deaths, which was a remarkably good record in comparison to many countries around the world.[57] On 24 June 2020, Thailand announced the country had been free from local infections for thirty consecutive days.[58] By July 2020, restrictions were eased and schools were permitted to reopen. By September 2020, all new COVID-19 cases were identified among returnees in state quarantine. With the pandemic under control in 2020, this eliminated health-related risks for civil society actors who would mobilise after the forced disappearance of a Thai activist (discussed more in the Section 3).

The use of emergency powers has yielded a markedly different result in the Philippines. Despite the creation of national taskforces, the management of the pandemic response was decentralised across the archipelago, which though initially aimed at improving responsiveness to local communities, instead contributed to policy inconsistencies and ineffectiveness.[59] The strong influence of defence and

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54 Atienza et al., *Constitutional Performance Assessment in the Time of a Pandemic*, 17.

55 Boossabong and Chamchong, "Coping with COVID-19 in a Non-Democratic System," 366. However, it should be noted that pandemic response in the third wave is notably more decentralised with greater role played by provincial administrations and has limited success in controlling the outbreak.

56 WHO, "Thailand: How a Strong Health System Fights a Pandemic". See also, Pongpisut Jongudomsuk et al., "The Kingdom of Thailand Health System Review," *Health Systems in Transition* 5, no. 5 (2015): xxiv.

57 Panu Wongcha-um and Panarat Thepgumpanat, "Thailand Changes Entry Rules after New COVID-19 Cases Spark Second Wave Fear," *Reuters,* July 14, 2020. https://www.reuters.com/article/us-health-coronavirus-thailand-idUKKCN24F0ZU

58 ILO, Covid-19: *Impact on Migrant Workers and Country Response in Thailand* (3 July 2020).

59 Riyanti Djalante et al., "COVID-19 and ASEAN Responses: Comparative Policy Analysis,"

security forces in the pandemic response contributed to its failures, as it led to the prioritisation of national security over public health. Put differently, the use of security forces was intended to eliminate political threats rather than to eradicate the virus. This generated negative perceptions among citizens, many of whom refused to follow official policies and directives due to the fear and panic caused by the government's militarised pandemic response.[60] Coupled with such fear, the shortage of medical professionals and poorly-financed health infrastructure severely limited efforts to control the pandemic. The government has limited capacity to carry out mass testing and systematic contact testing, which means it is unable to prevent additional COVID-19 clusters and outbreaks. Such failures, and the heavy-handed security approach, have inhibited citizens from leaving their homes, thus eliminating opportunities for mass mobilisation in the streets. As shown in the following section, civil society groups have had to adapt their advocacy and actions within the constraints imposed by the ongoing pandemic and political repression.

Progress in Disaster Science 8, no. 100123 (2020): 6.

60 Ibid.

3. Civil Society Mobilisation during COVID-19

Even before the pandemic, there were ongoing societal and political issues in Thailand and the Philippines. In the case of Thailand, they relate to the growing discontent among the youth against the ruling elite, especially from years of military oppression. In the Philippines, the discontent was driven by the growing cases of police and military-related abuses under the Duterte administration. When the pandemic hit, these issues did not abate but were exacerbated. Broadly speaking, these grievances have been shaped by the decline in the quality of democracy in both countries.[61] However, we see very different forms of civil society mobilisation between the two countries. These grievances were translated into mass demonstration in Thailand but largely online activism in the Philippines.

In Thailand, new opportunities for civil society activism emerged after the first wave of COVID-19 was brought under control by mid-2020. This was also possible with the re-opening of civic space during the 2019 general elections, the first election held since the May 2014 coup. The forced disappearance of Wanchalearm Satsaksit (วันเฉลิม สัตย์ศักดิ์สิทธิ์), an exiled activist residing in Cambodia, on 4 June 2020, sparked a new protest that would continue for the rest of 2020. His abduction was viewed as an act of official harassment of citizens. Subsequently, social media users initiated online campaigns, using hashtags #saveWanchalearm and #abolishArticle112 (lèse majesté law). The former hashtag trended on Thai Twitter for several days and the latter was retweeted more than 450,000 times.[62] Twitter became a central platform for anonymous expression of frustration against the ruling elite. Soon online campaigns transformed into street protests. On 5 June 2020, the Student Union of Thailand organised a demonstration at the sky train overpass in downtown Bangkok to demand justice for Wanchalearm.[63] Three days later, students joined a protest in front of the Cambodian embassy, urging the Cambodian government to investigate Wanchalearm's case.

From July until October 2020, student-led movements developed into a fully-fledged anti-establishment force. During this period, there were at least 246 protests reported in 62 provinces.[64] The movement's expansion reflected the uniting force among various groups. First, the Free Youth group (Yaowachon plod-aek), which started campaigning around tuition fees in early 2020, gained traction from

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61 Hunter Marston, *Civil Society and Southeast Asia's Authoritarian Turn* (Canberra: New Mandala, 2021).

62 George Wright and Praithongyaem, "Wanchalearm Satsaksit: The Thai Satirist Abducted in Broad Daylight," *BBC News*, July 2, 2020. https://www.bbc.com/news/world-asia-53212932

63 Khoasod Online, "Student Union of Thailand Seeks Justice for Refugees after Wanchalerm's Abduction," *Khaosod Online,* June 5, 2020. https://www.khaosod.co.th/politics/news_4262319.

64 Tyrell Haberkorn, "The Fight for Democracy in Thailand," *Dissent*, October 21, 2020. https://www.dissentmagazine.org/online_articles/the-fight-for-democracy-in-thailand

different university clubs from Bangkok and regional campuses and became a core protest organisation. Free Youth's first mass protest occurred on 18 July 2020 at the Bangkok's Democracy Monument, attracting approximately 5,000 people.[65] Its three key demands were an end to state harassment of citizens, a new constitution and Prayut's resignation.

Image by iLaw TH in Flickr, (CC BY-NC-SA 2.0)

In the following month, these protest efforts were combined with that of the Free People (Prachachon plod-aek) group. Together these groups organised the 'Setting a Deadline to Out Dictatorship' protest in August 2020, which attracted more than 50,000 people.[66] By this point, the movement had received additional momentum due to the participation of high school students (Bad Student group, a network of fifty school students formed in September 2020), women (Feminist plod-aek), LGBTQI network, artists and labour activists.[67] On 8 October 2020, the movement merged with another prominent activist group, the United Front of Thammasat and Demonstration. The broad umbrella of pro-democracy movements subsequently became the 2020 People's Party (Khana Ratsadorn 2563), which invoked the reference to the People's Party that overthrew absolute monarchy in 1932.[68] The central three demands uniting

65 Free Youth, "Free Youth Movement in 2020 [การเคลื่อนไหวของเยาวชนปลดแอกเกิดอะไรขึ้นบ้างในปี 2020?]," Facebook, December 31, 2020. https://www.facebook.com/FreeYOUTHth/photos/427988415316888.

66 Ibid.

67 Ruji Auethavornpipat and Kriangsak Teerakowitkajorn, "Thai Workers against Dictatorship?" *New Mandala*, June 29, 2021. https://www.newmandala.org/thai-workers-against-dictatorship

68 Sombatpoonsiri, "From Repression to Revolt: Thailand's 2020 Protests and the Regional Implications," 4.

the movement were Prayut's resignation, a constitutional amendment and monarchy reform.[69] In particular, protesters demanded the removal of senators appointed under the constitutionally-mandated system that empowers them to select a prime minister, and a monarchy that is more accountable to the people. Student-led movements appeared to be firmly established by mid-October 2020, as evidenced in the march to Government House that reportedly attracted more than 100,000 protesters.[70]

Protest groups galvanised support through decentralised coordination and tactics with the use of social media. The diversity of these groups meant that there were multiple protest leaders and leadership was thus diffuse. Mobilisation was largely decentralised and protesters were encouraged to coordinate among themselves through social media.[71] Twitter and Telegrams became communication channels used by protest organisers to inform protest sites, plans and changing situations on the ground. Adopting the Hong Kong protest style of 'acting like water', protest groups mobilised participants with a high level of fluidity and spontaneity. As such, protests could be organised within a short period of time and even without protest leaders on site.[72] This decentralised organisation was effective in building the protest momentum, at least before the second COVID-19 outbreak. For instance, after the arrest of key protest leaders on 14 October and the police clampdown at Government House at dawn on 15 October, organisers quickly adapted their strategy, reminding protesters that 'everyone is a leader' and renaming the movement 'The People'. From 17 October onwards, protests rapidly and spontaneously multiplied, occurring on a daily basis throughout Bangkok and across the nation.[73] An online database, Mob Data Thailand, reported that between January and December 2020, there were more than 700 demonstrations nationwide.[74]

By contrast, in the Philippines, grievances never fully materialised into mass street protests and instead took the form of online activism. Prior to the pandemic, Filipinos were already primed to be either manipulated by or suspicious of online content due to a climate of disinformation. Researchers have shown how politically-motivated, false and curated contents are produced and circulated by 'architects of networked disinformation', which includes online influencers, local celebrities, politicians'

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69 Prachatai, "Photo Essay: People's Party Protest 14-21 October," *Prachatai,* October 22. 2020, https://prachatai.com/journal/2020/10/90095

70 Free Youth, "Free Youth Movement in 2020."

71 Sombatpoonsiri, "From Repression to Revolt: Thailand's 2020 Protests and the Regional Implications," 4.

72 Ruji Auethavornpipat, "Thailand's Protests and Preventing a 'Second 6 October'," *New Mandala*, November 2, 2020. https://www.newmandala.org/thailands-protests-and-preventing-a-second-6-october/

73 Kanokrat Lertchoosakul, "The White Ribbon Movement: High School Students in the 2020 Thai Youth Protests," *Critical Asian Studies* (2021): 4.

74 See, https://www.mobdatathailand.org

in-house teams, and marketing companies.[75] These disinformation networks have weaponised the internet to support and bolster the operations of Duterte's administration. Thus, social media platforms are turned into toxic environments for any individual or institution expressing criticism or grievances against Duterte and his administration because of harassment and vitriolic campaigns by paid trolls, 'bot armies' and a range of fake news websites run by Duterte supporters. Moreover, it is being used to shield the government from accountability because '[i]n a digital environment muddled by falsehoods and inaccuracies, people are afforded narratives that only validate their own pre-existing beliefs and affirm experiences that reflect their immediate or narrow environment'.[76] Despite this, online or digital protests through hashtags such as #DutertePalpak (Duterte is a failure), #OustDuterte, and #DuterteResign have been ongoing.

This environment means that in the Philippines, the COVID-19 pandemic is mediated by a pervasive climate of disinformation and mistrust. This poses a barrier to mobilising people based on information circulated online. In addition, civil society activists tend not to encourage mass civil society mobilisation in order to avoid further exacerbating the pandemic, especially in Manila which is both the epicentre of the pandemic and the seat of political power. While a handful of 'socially-distanced' protests were organised, these have not generated popular or widespread participation.[77] This suggests that people calculate the risks of mass mobilisation and develop mobilisation strategies in response to the constraints of the pandemic. Because the pandemic has not been fully controlled in Manila, mobilising on the streets poses higher risks of COVID-19 infection. In addition, as discussed above, strict lockdowns are heavily enforced by the police and military such that violators are either jailed and/or subjected to abuse. Crucially, those who voice dissent were met with state repression even before the pandemic, and this practice continues — and has been exacerbated by — COVID-19.

3.1 Ongoing Challenges and Long-Term Implications

Civil society in both the Philippines and Thailand have to work with serious constraints. In the Philippines, the government passed the Anti-Terrorism Act in June 2020 while lockdowns were in effect. Despite the UN's global call for a ceasefire in support for the bigger battle against COVID-19, the Philippine State under Duterte intensified its counter-insurgency and counter-terrorism operations. Red-tagging

75 Jonathan Corpus Ong, Ross Tapsell, and Nicole Curato, *Tracking Digital Disinformation in the 2019 Philippine Midterm Election* (Canberra: New Mandala, 2020).

76 Earvin Charles Cabalquinto and Maria Tanyag, "A Murderous Plague in the Philippines," *New Mandala*, March 24, 2021. https://www.newmandala.org/a-murderous-plague-in-the-philippines

77 Gabriel Pabico Lalu, "Groups Protest Anti-Terror Bill Passage at up Rally Despite Quarantine," *Inquirer*, June 4, 2020. https://newsinfo.inquirer.net/1286375/groups-protest-anti-terror-bill-passage-at-up-rally-despite-quarantine

refers to the labelling of left-leaning individuals and groups as communists and therefore terrorists. The targets of red-tagging, following the same trajectory of the drug war, have broadened beyond the usual suspects of Communists and New People's Army members. In practice, it has expanded to individuals who hold critical views of the Duterte administration. Journalists, and academics are also targeted by the government based on unfounded accusations that they are indoctrinating students with leftist ideology and recruiting Communists.

There are reports that this new anti-terrorism law is being weaponised for 'red-tagging' and to silence public discontent regarding serious shortcomings and violent approaches to the handling of the pandemic. In March 2021, the coordinated killings and arrests of human rights activists, known as the 'Bloody Sunday' operation, occurred in several provinces south of Manila.[78] Two days before the Bloody Sunday operation, Duterte delivered a public statement where he openly ordered police and military to 'ignore human rights' and 'shoot and kill right away' if they see communists holding a gun.[79] In another example, only a few months after the Terrorism Act was passed in 2020, the National Council of Churches in the Philippines reported increased incidences of harassment from the military in the conduct of their work with the communities since they have been red-tagged or identified as a Communist organisation in a presentation made by the Department of National Defense to the Philippine congress last year.

Camaligan Community pantry. Image by Kunokuno on Wikimedia commons. (CC BY-SA 4.0)

78 These activists were community organisers and were involved in labour unions, and as such were victims of 'red-tagging' but more broadly of state violence under Duterte. See, Rambo Talabong, "Bloody Sunday: 9 Dead, 6 Arrested in Calabarzon Crackdown on Activists," *Rappler,* March 7, 2021. https://www.rappler.com/nation/dead-arrested-calabarzon-crackdown-progressives-march-7-2021

79 Catherine S. Valente, "Duterte Orders Military to 'Shoot and Kill' Armed Communist Rebels," *The Manila Times*, March 6, 2021. https://www.manilatimes.net/2021/03/06/news/duterte-orders-military-to-shoot-and-kill-armed-communist-rebels/847906

Despite the tremendous barriers to mass mobilisation and limits to online activism in the Philippines, community responses to the pandemic have recently emerged. Discontent against the government has been channelled to self-help among the worst-hit communities. In April 2021, news of an initiative by a woman in Quezon City (Metro Manila) to set up a community pantry in her neighbourhood, named Maginhawa where people can freely donate and take food supplies, spread nationwide. Within a matter of days, other neighbourhoods inspired by the Maginhawa Community Pantry emerged all over the country.[80] Many celebrated these community pantries as embodying mutual aid and trust among Filipinos.

However, this movement built around community care emerged precisely because of the shortcomings resulting from a militarised pandemic response. The woman who first set up the community pantry, Ana Patricia Non, has subsequently been 'red-tagged' along with other founders of community pantries, on the social media accounts of the Philippine police, and through in-person profiling whereby police officers do 'background checks' and gather personal data.[81] This police response has thus far been met by disapproval from the broader public, political figures, several mayors and key members of congress, who have all urged the police to cease 'red-tagging' community efforts.[82] Hence, the government has backpedalled on their initial reaction to frame the community pantries as anti-government resistance to instead valorise Filipinos' innate 'resilience' rooted in traditional practices of 'bayanihan' (translates to collective labour and mutual aid to build nation or community). In other words, the government has responded to popular opinion by framing these community-led pandemic responses not as a critique of, but rather as a cover for its failures.

This example highlights how, in times of crisis, governments may be absolved of responsibility and accountability when there is an overemphasis on local or community-based survival efforts. As Su and Tanyag argue in the aftermath of crises such as disasters, '[t]here is a risk that accounts of mutual aid, resourcefulness or local ingenuity, and self-reliance are mythologised and eventually ossified as "truth"' which can then (mis)inform long-term national programming and preparedness.[83]

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80 Nick Villavecer, "Ana Patricia Non and a Street That Turned into a Movement," *Rappler,* April 22, 2021. https://www.rappler.com/moveph/maginhawa-community-pantry-ana-patricia-street-becomes-movement

81 Neil Arwin Mercado, "Maginhawa Community Pantry to Continue Despite Red-Tagging, Says Organizer," *Inquirer,* April 20, 2021. https://newsinfo.inquirer.net/1421479/maginhawa-community-pantry-to-continue-despite-red-tagging-says-organizer

82 Mara Cepeda, "Senators: Stop 'Deplorable' Red-Tagging of Community Pantries," Rappler, April 20, 2021. https://www.rappler.com/nation/senators-message-police-ntf-elcac-stop-red-tagging-community-pantries; CNN Philippines, "Mayors, Senators Defend Community Pantries Amid Alleged Red-Tagging, Requiring of Permits," *CNN Philippines,* April 20, 2021. https://cnnphilippines.com/news/2021/4/20/community-pantry-permits-red-tagging.html

83 Yvonne Su and Maria Tanyag, "Globalising Myths of Survival: Post-Disaster Households

Community pantries may mitigate shortcomings in food security within the national pandemic response but on their own they are insufficient in managing the crisis and ensuring inclusive recovery. They may be depoliticised and used to divert attention from the need to improve the national response and ensure state accountability. Nevertheless, the fast spread of civil society-led community pantries can also be interpreted as a sign that while spaces for political mobilisation are curtailed, especially at the national-level, resistance during the pandemic is durable and can be channelled in different ways at smaller scales. Civil society-led community efforts may serve as the bedrock for revitalising the quality of democracy in the Philippines as part of long-term post-COVID national reconstruction.

The Philippine case offers an important parallel to understanding ongoing obstacles that democracy activists are facing in Thailand. Since the height of large-scale demonstrations in 2020, pro-democracy movements have been met with increasingly repressive measures, particularly legal prosecution and violent crackdowns, which deliberately instil fear and stifle further activities.[84] In terms of legal prosecution, Prayut warned protesters in November 2020 that "all laws and articles" would be used against protesters, signalling more severe repercussions.[85] Legal attacks, together with online surveillance and manipulation of social media content, have also been carried out by "authoritarian civil society" or supporters of the establishment, thus lending legitimacy to authorities' efforts in quelling pro-democracy movements.[86] Prosecutions serve as a threat to activists. It can also keep activists pre-occupied with litigation. Legal cases also remain unfinished with a verdict of either innocent or guilty awaiting court decisions. Thai Lawyers for Human Rights (TLHR), an organisation that has provided legal assistance to activists arrested and prosecuted since the May 2014 coup, observed that from the Free Youth protest on 18 July 2020 until the end of May 2021, at least 679 people have been prosecuted for political gatherings and expression. [87]

In addition, from the emergency declaration until the end of May 2021, at least 510 people were charged with violating Emergency Decree provisions which were meant to control COVID-19. Furthermore, despite recent releases of prominent protest leaders, those charged with the lèse-majesté law are often denied bail and therefore

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after Typhoon Haiyan," *Gender, Place & Culture* 27, no. 11 (2020): 1520.

84 Sombatpoonsiri, "From Repression to Revolt: Thailand's 2020 Protests and the Regional Implications," 4.

85 Bangkok Post, "PM: All Laws, Articles Will Be Used against Violent Protesters," *Bangkok Post*, November 19, 2020. https://www.bangkokpost.com/thailand/general/2022275/pm-all-laws-articles-will-be-used-against-violent-protesters

86 Janjira Sombatpoonsiri, "The Dark Side of Civil Society? How Thailand's Civic Networks Foster Autocracy," accessed April 29, 2021. https://melbourneasiareview.edu.au/the-dark-side-of-civil-society-how-thailands-civic-networks-foster-autocracy

87 Thai Lawyers for Human Rights, "TLHR Overall Situation in May 2021," accessed June 21, 2021. https://tlhr2014.com/en/archives/30728

detained pending trial. If convicted, the punishment can result in a very lengthy prison sentence between three and fifteen years for each offence. As of 11 June 2021, 100 people, including 8 children under the age of 18, are facing Article 112 charges. TLHR further indicates the majority of these cases resulted from online expression and participation in peaceful pro-democracy protests between August 2020 and March 2021.[88]

Protesters from Thailand are hit with water cannons. Image by Sirachai Arunrugstichai on iLaw TH on Flickr (CC BY-NC-SA 2.0)

In the case of forceful and violent crackdowns on protests, the first sign of brutality emerged on the night of 16 October 2020 when police fired water cannons against peaceful pro-democracy protesters in downtown Bangkok. This incident occurred under the state of emergency which gives security forces the right to exercise power with impunity. Police also mixed the water with blue dye to identify protesters and teargas chemicals to disperse the crowd. The brutal treatment of peaceful protesters attracted both domestic and international criticisms.[89] Human Rights Watch condemned the official response as unnecessary and other organisations criticised it as disproportionate.[90] On 18 November 2020, Spokesperson for the UN Secretary-General Stéphane Dujarric condemned the use of water cannons, stating 'it's disturbing to see the repeated use of less lethal weapons against peaceful

88 Thai Lawyers for Human Rights, "Lèse-Majesté Epidemic Reaches New Milestone," accessed June 19, 2021. https://tlhr2014.com/en/archives/30765.

89 Rebecca Ratcliffe, "Thousands of Thais Defy Crackdown on Protests in Bangkok," *The Guardian*, October 18, 2020. https://www.theguardian.com/world/2020/oct/17/thousands-of-thais-defy-crackdown-on-protests-in-bangkok.

90 Human Rights Watch, "Thailand: Water Cannon Used against Peaceful Activists," accessed April 30, 2021. https://www.hrw.org/news/2020/10/17/thailand-water-cannon-used-against-peaceful-activists.

protesters'.[91] Police brutality amplified in February 2021.[92] At the 13 February demonstration, it was reported that police officers in full riot gear chased down a man wearing what appeared to be a volunteer medic vest with at least one officer beating him with a baton as the victim fell to the ground.[93] A heavy-handed response was also observed during the 28 February demonstration where, in addition to water cannons and tear gas, authorities fired rubber bullets at pro-democracy protesters for the first time.[94] This incident alone led to the arrest of 23 people, including four minors, in violation of the Emergency Decree.[95] The violent clash left ten protesters and twenty-six police officers injured.

The pattern of increased brutality can also be seen in a protest on 20 March 2021. A video was shared on the Internet, revealing that riot police officers chased after protesters who were running away and repeatedly beat a victim who was already lying down on the ground.[96] Authorities were criticised for using rubber bullets, tear gas and water cannons 'broadly and indiscriminately'.[97] The same protest saw several journalists shot with rubber bullets, 33 people injured and 30 arrested.[98] In addition to police brutality, protesters also faced physical violence including beating and gun shot from unknown assailants. The 20 March protest marked the second time that live rounds were shot at protesters and at least one person was taken to an intensive care unit.[99] Alarmingly, there were also reports of official harassment of academics, who were monitored and followed to their residences.[100] The increase of both violence and legal prosecution, together with ongoing third wave of COVID-19 has curtailed mass mobilisation in Thailand.

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91 United Nations, "Daily Press Briefing by the Office of the Spokesperson for the Secretary-General," accessed April 29, 2021. https://prachatai.com/english/node/8923

92 Thai Lawyers for Human Rights, "Feb 21: Political Legal Cases Continuously Increases," accessed April 29, 2021, https://tlhr2014.com/archives/26506#pll_switcher

93 Bangkok Post, "Police and Protesters Face Off Again," *Bangkok Post,* February 13, 2021. https://www.bangkokpost.com/thailand/politics/2067647/police-and-protesters-face-off-again

94 Reuters, "Dozens Hurt at Weekend Thai Protest as Police Use Rubber Bullets," *Reuters*, March 1, 2021. https://www.reuters.com/article/uk-thailand-protests-idUKKCN2AT1OZ.

95 Mob Data Thailand, "#28febmob," accessed April 29, 2021, https://www.mobdatathailand.org/case-file/1614773886917.

96 Prajak Kongkirati (@bbksnow), "Police Action is not peaceful [ตำรวจทำเช่นนี้ไม่ใช่การรักษาความสงบ]," Twitter, March 21, 2021, https://twitter.com/bkksnow/status/1373503689235648518.

97 Prachatai, "Protest Turns Bloody as Police Indiscriminately Fire Rubber Bullets," *Prachatai*, March 21, 2021, https://prachatai.com/english/node/9134.

98 Thai Lawyers for Human Rights, "Criminal Court Grants Bail to 16 Arrested from 20 March Protest," accessed April 29, 2021, https://tlhr2014.com/archives/27246.

99 Prachatai, "Redem Protesters Reveal the Minute of Being Shot by Unknown Assailiant," *Prachatai*, March 23, 2021, https://prachatai.com/journal/2021/03/92241.

100 Thai Lawyers for Human Rights, "Law Professsor at Chaing Mai University to Be Met with Police Asking About Activities Ahead of King's Visit," accessed April 29, 2021. https://tlhr2014.com/archives/27380.

While online expression of political dissent can still be seen on social media, pro-democracy activists have adapted their strategy by changing the shape and form of protests. They have deployed hunger strikes and silent protests over a sustained and long period of time. For instance, before being released on bail, Parit 'Penguin'. Chiwarak and Panusaya 'Rung' Sithijirawattanakul, charged with Article 112, were on a hunger strike for 58 and 38 days respectively.[101] Penguin's health critically deteriorated to the point of risking his own life. The bail denial also triggered daily physically-distanced silent protests (ยืน หยุด ขัง) organised by the Resistant Citizens group (พลเมืองโต้กลับ), which was joined by mothers of activists demanding justice for their children. The silent protest was carried out for 71 days in total, from 22 March 2021 until 2 June 2021 when protest leaders were granted release on bail.[102] Protesters initially stood in front of the Supreme Court, and subsequently in various locations, for 112 minutes (later this changed to 1 hour and 12 minutes). The protest started with only nine people and rose to around 500 in April 2021. This was a powerful symbolic protest despite the crackdown on peaceful demonstration. Another civil society adaptation was the use of 'car mob', adopted by pro-democracy activists in July 2021 as COVID-19 cases rose sharply. This allowed people to gather at street protests in private vehicles, to mitigate the risk of COVID-19 infection. Honking horns in these protests refers to the local habit of honking ahead of a blind spot, symbolising the darkness that looms over Thailand's political situation. [103] These tactics may also be durable and effective in maintaining civil society activism until political opportunities become more favourable and less risky.

Image by iLaw TH on Flickr (CC BY-NC-SA 2.0).

101 Thai Lawyers for Human Rights, "The Disintegration of Legal Cases Universe," accessed June 21, 2021. https://tlhr2014.com/archives/30983.

102 Matichon Online, "71 Days: 'Stand Stop Detention' Mission Completed," *Matichon Online,* June 12, 2021. https://www.matichon.co.th/news-monitor/news_2769460.

103 Bangkok Post, "Three Anti-Prayut Groups Rally, Stage 'Car Mob'," Bangkok Post, 3 July 2021. https://www.bangkokpost.com/thailand/politics/2142851/three-anti-prayut-groups-rally-stage-car-mob

4. Conclusion

This policy brief examined how the dynamics in state-society relations are impacted by COVID-19 pandemic in Thailand and the Philippines. The key findings from our comparative analysis highlight the varying outcomes that result from the use of emergency powers for national pandemic responses and differences in the opportunities and costs for civil society. First, both countries employed emergency measures to address the pandemic. These emergency measures centralised authority and financial resources with the national government. In the case of Thailand, this has been effective in managing the spread of COVID-19 in the first outbreak, thereby providing opportunities for citizens to mobilise in street protests. However, in the Philippines, emergency powers centralised authority and resources and, at the same time, allowed the military to become directly involved in the pandemic response. As a result, the pandemic response was harnessed for counterinsurgency and state repression.

Second, civil society mobilisation is interrelated with pandemic responses in the sense that it provides an important check on emergency powers and helps to provide access to services and information. Civil society mobilisation has pressured the Thai and Philippine governments to improve their pandemic responses but is not shown to translate into policy change or reform when pre-existing civic participation is already constrained and further worsened by the pandemic. In the case of the Philippines, the failing pandemic response has had ambivalent impacts on civil society mobilisation. Strict lockdowns and rising COVID-19 cases disincentivise people from going out in the streets and protesting. There have been cases of online or social media protests but these feed into the already problematic terrain of digital disinformation in the Philippines. Health workers remain on the frontlines of the pandemic and have consistently pressured the government to improve. However, their concerns have been largely ignored by the militarised national COVID-19 task force. It has been more than one year since the first COVID-19 outbreak and the Philippine government's pandemic response remains short-sighted and militarised. Paradoxically, this failure is triggering the emergence of new community-driven, 'self-help' strategies toward surviving the pandemic underpinned by belief that people cannot rely on help from the government and therefore must weather this crisis on their own. These community-driven initiatives can potentially strengthen civic society and repair societal damages caused by the Duterte administration in the long-run, but also divert attention from the need to improve national pandemic responses.

Third, while differing greatly in political and socio-cultural systems, civil society in both countries have been met by pandemic-intensified state repression. Protesters in Thailand are now subject to increasing repression from the state, not through systematised extrajudicial killings but largely through abuse of the law to quell political dissent. The initial effective pandemic response generated political opportunities for mass mobilisation in Thailand. This enabled civil society groups

to directly rally against ruling elites and undemocratic nature of Thai politics. New mobilisation tactics such as the use of social media and reduced dependence on protest leaders allowed pro-democracy movements to maintain momentum at least for the second half of 2020. Nevertheless, civil society activism in Thailand has been stymied by legal prosecution, forceful clampdowns of protest and ongoing COVID-19 outbreaks. The combination of these factors puts limits on the possibility of nationwide protests. The prosecution of prominent protest leaders and those expressing dissent online was undoubtedly detrimental to both civil society and freedom of expression. However, citizens' grievances towards the government's haphazard COVID-19 vaccine rollout has further revealed the incompetence of the current regime and may potentially present new grievances and opportunities for uniting a broad base of citizens. It therefore remains to be seen whether pro-democracy movements will strengthen after the pandemic is under control again.

Last, there are important recommendations for policymakers and civil society partners that can be drawn from this research. Comparing Thailand and the Philippines, we find that creating spaces for civil society should be integral to post-COVID recovery and reconstruction plans. It is also clear how the pandemic responses may play into the hands of state violence and repression regardless of whether the response has been effective or limited in managing the spread of the virus. Consequently, international partners such as Australian decision-makers and transnational advocacy networks should support domestic human rights and democracy activists in advocating for governments to clearly define and assess the temporary enforcement of emergency powers. In addition, regional and international stakeholders can play an integral role in providing support for local organisations and activists to document human rights violations and abuses of power that have occurred in Southeast Asia. In doing so, both international partners and domestic counterparts can place state accountability and long-term prevention of violence as central to post-pandemic recovery plans.

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