

Parallel Report



The Intersection of Enforced Disappearance and Torture in Thailand Parallel Report, Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

Submission to the Committee Against Torture (CAT)

Submitted by the Justice for Peace Foundation

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This submission does not cover the full range of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Thailand. This should not be interpreted to mean that JPF does not prioritize those issues. However, as JPF is aware that other organizations have focused in detail on other issues of serious concern such as torture and security legislation, the death penalty and violence against women, we have chosen to focus on issues not covered in detail in other submissions.

The Intersection of Enforced Disappearance and Torture in Thailand
Parallel Report, Convention against Torture and other Cruel, Inhuman or Degrading
Treatment or Punishment

1. At present, Thailand does not have domestic law that stipulates torture and other cruel, inhuman or degrading treatment or punishment as a crime. Although the Rights and Liberties Protection Department, Ministry of Justice and the Law, Justice, and Human Rights Committee of the Parliament previously examined a draft law on torture, after Prime Minister Yingluck Shinawatra dissolved Parliament in December 2013, the Committee's examination of the draft ceased.
2. Article 32 of the 2007 Constitution discusses torture and ill-treatment and specifies that the victim, prosecutor, or another individual acting on behalf of the victim has the right to petition the court to redress those actions, including to provide reparations for losses sustained.
3. Article 32, Note no.5 of the memorandum of the intention of the 2007 Constitution refers to "cruel punishment" and includes "enforced disappearance" committed by or with the complicity of state officials, in line with the United Nations Convention for the Protection of All Persons from Enforced or Involuntary Disappearance.¹
4. Article 5 (2) of the Criminal Procedure Code prescribes that a parent, descendant, husband or wife can act on behalf of the victim only in crimes in which the victim was assaulted and killed or injured to a degree to which he or she cannot act on his or her own behalf. This causes the families of victims of enforced disappearance in which a body has not been located to be unable to exercise their legal rights to access truth, justice, and reparations.
5. The problems of accessing justice for victims of enforced disappearance are compounded in cases in which victims are also tortured. When the body of the disappeared person cannot be found, there is therefore no evidence that the victim was tortured or dehumanized, or evidence that the victim has died. This then becomes a significant obstacle that prevents the families of the victims from accessing justice.²
6. Evidence of ill treatment and torture in detention in Thailand has been repeatedly presented by human rights groups, particularly in regards to detainees held under security laws including martial law and the Emergency Decree on Public Administration in Emergency Situation, B.E. 2548 (2005) ("Emergency Decree") in the border provinces, especially in northern and southern Thailand. The increasing

¹ The Memorandum of the Intention of the 2007 Constitution, 2007, page 25.

² In the case of Mr. Somchai Neelapaijit (UN WGEID case no. 1003249), who was disappeared by the police on 12 March 2004, the Appeal Court referred to Article 5 (2) of the Criminal Procedure Code and argued that there was not sufficient proof that he was dead or had been tortured, and therefore his family could not act on his behalf. Even though former Prime Minister Thaksin Shinawatra had stated that Somchai was dead, the fact of his body not being found has made it incredibly difficult to hold the perpetrators accountable for their crimes. At present, the case of the disappearance of Somchai Neelapaijit is being examined by the Supreme Court.

number of individuals held under these laws, which lack the necessary checks and balances to ensure the rights of detainees, is of grave concern.

7. The emergency legislative framework applied in southern Thailand removes policing from protection of the rule of law. Detention-related provisions, in particular, contribute to the possibility of enforced disappearances taking place. Martial law, which has been in force in the south since January 2004, allows for detention of up to seven days for interrogation without a warrant, does not require judicial review and denies the right to challenge the detention, including challenges through a writ of *habeas corpus*. The International Commission of Jurists (ICJ) has found that sites of detention are often undisclosed with detainees often held in military bases or other *ad hoc* locations.³ Many of the cases of disappearances described below may have begun as arbitrary detention under martial Law. As long as this law remains in force, disappearances are likely to continue in Thailand.
8. In the past decade, two official state policies have directly contributed to the creation of an environment in which enforced disappearances, and other serious human rights violations, take place. These are (i) the highly militarized counter-insurgency approach adopted in southern Thailand by various governments, beginning in 2001 under the Thaksin administration; and (ii) the War on Narcotic Drugs policy implemented by Prime Minister Thaksin in 2003, which has had lasting impacts well beyond the end of the official policy period.
9. Enforced disappearance is used as an extralegal method of harassment and repression by the security forces in Thailand. The full extent of enforced disappearance in Thailand remains unknown but documentation suggests that it is frequently used by Thai security forces. Despite ratifying numerous human rights treaties, Thailand has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance, nor has the Government criminalized the act of enforced disappearance.⁴ These legal gaps, combined with a failure to prosecute those responsible for enforced disappearance, suggests that past and current government officials are not serious about bringing an end to this crime in Thailand. As a result, enforced disappearance continues to take place with impunity.
10. The Justice for Peace Foundation (JPF) has documented more than 90 cases of enforced disappearance that took place between 1991 and 2010 and expects that there are many more cases. The cases documented by JPF include a range of human rights defenders and individuals. Thanong Pho Arn, President of the Labour Congress of Thailand, disappeared in 1991. Over 30 cases of enforced disappearance occurred in May 1992 when security forces cracked down on peaceful demonstrators in

³ International Commission of Jurists, *UPR Submission*, October 2011.

⁴ On 9 February 2012, Thailand signed the Convention for the Protection of All Persons from Enforced Disappearance; however, enforced disappearance has yet to be criminalized and legislation related to investigation, prosecution, and remedies has not yet been passed.

Bangkok.⁵ During the War on Drugs under the Thaksin administration in 2003, at least 2,800 people were killed, tortured or disappeared, including many from marginalized communities. Since 2002, there have been 34 cases of enforced disappearance in the Southern Border Provinces resulting from the counterinsurgency policy of the Thaksin administration and subsequent governments. On 12 March 2004, Somchai Neelapaijit, a prominent human rights lawyer, was forcibly disappeared in Bangkok by the Thai police. His whereabouts have never been determined and justice has been slow and unsatisfactory. In February 2008, Kamon Laosopapan, an anti-corruption activist, was disappeared at the Ban Phai Police station in Khon Kaen Province. Other human rights organizations have documented dozens of additional cases of enforced disappearance in Thailand.⁶

11. Along the Thai-Myanmar border in western Thailand, there are large numbers of documented and undocumented migrant workers and also approximately 140,000 refugees from Myanmar. The workers, whether legal or illegal, are vulnerable to human rights violations as the legal framework does not provide the same protections to them as it does to Thai citizens. As a result they experience extortion, threats, arbitrary detention, deportation, beatings, rape, killings and disappearances at the hands of officials, people smugglers and employers. Migrants and refugees who have represented their communities' demands for rights have found themselves targeted and sometimes killed as a result of their activism.⁷
12. Hill Tribes in Northern Thailand find themselves treated unequally, regardless of their citizenship status. Hill Tribe communities often live in mountainous border lands which have in the past been used for growing opium and as routes for drug smuggling. The perception among the general public is that these communities continue to be involved in drug trafficking. Former Human Rights Commissioner Wasan Panich found that during the War on Narcotic Drugs in 2003, ethnic communities were targeted despite the security forces repeatedly finding no evidence of drugs during searches.⁸
13. JPF has documented in detail cases of arbitrary detention, torture, extrajudicial killing and enforced disappearance that took place as a direct result of Prime Minister Thaksin's War on Narcotic Drugs policy between February and May 2003 at a ranger⁹ camp in Chiang Mai province in northern Thailand. However, the number and scale of violations increased dramatically in May 2003. Between May and December 2003, this camp was the site of arbitrary detention and torture, primarily

⁵ Bangkok Post, "Tanong Mystery," 21 November 2001.

⁶ Justice for Peace Foundation, *UPR Submission*, October 2011.

⁷ Justice for Peace Foundation, *Enforced Disappearance in Thailand*, first edition May 2012, pages 8. Please see <http://www.justiceforpeace.org> for the full report.

⁸ Wasan Panich, quoted in Attapong Saksanganmanoon, "Hill tribes and the re-birth of government policy to crackdown on drugs: Life can be lifeless," *Prachatai*, 24 March 2008.

⁹ Rangers are locally recruited security personnel who assist and report to the military. In this case, the ranger camp was in the same location as the military barracks and it would have been impossible for the military to not be aware of what was taking place inside the ranger camp.

for individuals from the Lahu Hill Tribe community; several cases of extrajudicial killing and enforced disappearance have also been documented during the same period at this camp.¹⁰

14. JPF found that during May to December 2003, individuals were arrested in their villages or at work (in the fields) by large numbers of soldiers and rangers in uniform with military vehicles and sometimes in the presence of other government officials. Those arrested were usually beaten by security officials during the arrest, sometimes blindfolded, and then transported in military trucks to the ranger camp. Detainees were brought to the camp from surrounding districts and as far away as Chiang Rai province¹¹. Upon arrival at the camp, their blindfolds were removed and they were handcuffed or shackled to another detainee. Some new arrivals were beaten before being forced to climb down a ladder into a hole dug into the ground. The hole had only one entrance and exit, in the mouth of the hole. The hole was approximately two metres deep and the ladder was removed after the detainee was secured inside. Most of the detainees were kept in the hole for seven continuous days.¹² Stories of the hole and torture are widely known among Lahu villagers. In many cases, at the time of capture, shooting and beating are done in public, in front of other Lahu. Most of the victims and victims' families do not dare to report the case to the police as they are afraid that they themselves will be disappeared.¹³

15. The case of Jahwa Jalo, a member of one of the Lahu Hill Tribe communities in northern Thailand demonstrates the entrenched and systematic difficulties that victims and victim's families face in accessing justice. In October 2003, Jahwa was arrested during a raid on a lychee orchard where he worked by around 30 men who wore black uniforms with red scarfs and were heavily armed. It was reported to JPF that the arresting officer admitted to his superior that they had found no "contra band" on the individual's own person, yet he was still taken. A witness reported that before being transported, a member of the security forces stepped on Jahwa's neck until his tongue protruded and a lot of blood came out of his mouth. He was taken to a ranger camp where he was beaten by officials and then up to 40 other detainees were forced to line up and kick him twice. While it became obvious that Jahwa was in grave condition, he was left on the ground to die. Jahwa's body was then transported by the officials, placed in a pit in the ground, shot several times, and buried. Two prisoners were forced to assist with the burial and know the location of the body. After the arrest, the victim's daughter visited the camp to enquire about her father. She was told he had been released already. When she visited a second time she was told he has been moved to Chiang Mai city. Jahwa remains a disappeared person.¹⁴

¹⁰Justice for Peace Foundation, *Ibid.*, page 24. JPF was unable to document if similar methods were used at military barracks or ranger camps in other areas in the north. The violations documented at the ranger camp may be an indication of methods used elsewhere, however further documentation would be needed to ascertain if this is the case.

¹¹ Chiang Rai province is near Chiang Mai province, and the majority of the Lahu live in this area.

¹² Justice for Peace Foundation, *Ibid.*, page 25.

¹³ <http://prachatai.com/english/node/3904>

¹⁴Justice for Peace Foundation, *Ibid.*, pages 26.

16. Although the War on Narcotic Drugs was concluded at the end of 2003, the practice of torture, extrajudicial killings and enforced disappearances has continued until today. State officials may arrive at the door of one's home, claiming to search for illegal goods and order a search without a court warrant, or a fake warrant, take valuables and vehicles from the house and detain the person at an unknown, unofficial place.¹⁵

17. Recently, on 28 February 2014, three Lahu (two men and one woman) were driving to Pasi village, Mallika sub-district, Mae Ai district, Chiang Mai province. They parked along the side of the road for a man to go to the bathroom. While the man went to the bathroom, a group of men dressed similarly to a soldier waiting nearby shot at the car that a woman and her relative were waiting in the car. A bullet entered the woman's skull and she was seriously injured. Her relative drove the car to send her to the hospital while another man was arrested and taken to a ranger camp in Tha Ton sub-district, Mae Ai district, Chiang Mai province. The rangers did not present an arrest warrant or inform them of the accusations. The man was able to escape and then their neighbors filed a complaint at the Mae Ai district police station. But the rangers requested that they not file a complaint. This caused the villagers to become frightened and they did not file a complaint, but asked the police to make an entry in the daily record as evidence of what happened. Subsequently, the rangers came to ask to reconcile what occurred without involving the court. The rangers offered the woman's family 200,000 baht (6,195 USD) for the costs of her medical treatment and to compensate for the damage to the car. At first, the villagers refused, because the injury to her brain may leave her permanently disabled and she is currently still in the hospital in Chiang Mai. But as a result of pressure from the rangers and the fear felt by the villagers, they had to stop proceeding with the court case.¹⁶

18. The case of Somchai Neelapaijit is illustrative of the obstacles to truth and justice in the case of torture and enforced disappearance in Thailand. The former Prime Minister (Thaksin Shinawatra) stated that Somchai was dead and simultaneously, his wife was also verbally informed by some Department of Special Investigation (DSI) officers that after Somchai was shoved into a vehicle prepared by the perpetrators, he was driven to a safe house located close to the Crime Suppression Division in Bangkok. (This information was determined by using the coordinates of the mobile phone used by one of the perpetrators during the time of the crime.) Then, Somchai Neelapaijit was subjected to brutal abuse and forced to make a confession. He sustained severe injuries and later died. His body was then relocated and burned and his ashes were dumped into the Mae Klong River in Ratchaburi Province by the perpetrators.¹⁷ As neither the body nor any parts of it could be found, the DSI claims

¹⁵ Prachatai interview with Mr. Sila Jahae, the President of the Lahu Association; Please see "Crime of the State: Enforced disappearance, killings and impunity," 25 March 2014, Available online at <http://prachatai.com/english/node/3904>

¹⁶ Justice for Peace Foundation interview with Mr. Sila Jahae, President of the Lahu Association, 12 March 2014.

¹⁷ Angkhana Neelapaijit, Somchai's wife, raised her concerns about Somchai's torture and disappearance to Prime Minister Yingluck Shinawatra in a letter sent on 10 September 2013.

to be unable to solve the murder of Somchai Neelapaijit. Somchai Neelapaijit remains a disappeared person.

19. In March 2009, Police Colonel Weerasak Meenakanit, the chief DSI investigator, revealed that the delay in the Somchai Neelapaijit case was because the investigation team did not want to deal with the high-ranking police officers involved in the case. Police Colonel Tawee Sodsong, the DSI Director-General, publicly stated that, from their secret investigation, the DSI knew that a group of perpetrators brought Somchai Neelapaijit's corpse to be burned at a bomb disposal site owned by the military and threw the barrels and the remain into the Mae Klong River near Sirilak Bridge in Ratchaburi province.¹⁸ On 11 December 2013, the DSI claimed that the Somchai Neelapaijit investigation files had been stolen in the course of protests in Bangkok¹⁹ a claim that was later declared to be unfounded.²⁰ And on 20 December 2013, the DSI announced that it was contemplating closing the investigation into Somchai Neelapaijit's enforced disappearance.²¹

20. JPF has documented many individual cases in southern Thailand in which individuals were disappeared after being invited by the security forces to meet with them, and where subsequently the individual was forced or agreed to go with them. For example the case of **Mr. Ya Jae-Dorlor** and **Mr. Wae-harong Rohing** were invited in March 2002 by a man known as Do-lah Roying, on behalf of the police, to report to the Muang District Police Station in Yala. They left home for the meeting and never returned; Mr. Do-lah was later found shot to death.²² **Mr. Mayateng Maranor** was "invited" by rangers from Task Force No. 41 for interrogation at Bang Lang Dam Army Base in Yala. He left with the rangers in June 2007 and then he was disappeared.²³

¹⁸ International Commission of Jurists *Ten Years without Truth: Somchai Neelapaijit and Enforced Disappearances in Thailand*, March 2014, page 1.

¹⁹ Statement of Pol. Col. Niran Adulayasak, Director of the DSI Bureau of Special Crimes Area 1, to the Thai Public Broadcasting Service, 11 December 2013. ICJ, *Ibid.*, page 11.

²⁰ Statement of Ms. Suwana Suwanjuta, Deputy Permanent Secretary for Justice, Ministry of Justice, as reported in the *Bangkok Post*, 20 December 2013; Please see <http://www.bangkokpost.com/news/security/385747/justice-ministry-denies-report-somchai-files-were-removed>

²¹ ICJ, *Ibid.*, page 11. On 12 March 2014, a group of the United Nations experts including the UN Working Group on Involuntary or Enforced Disappearance, the SR on the situation of human rights defenders, the SR on the independence of judges and lawyers, the SR on the promotion and protection of the rights to freedom of opinion and expression and the SR on the rights to freedom to peaceful assembly and association made a joint statement on the 10-year anniversary of Somchai Neelapaijit's disappearance. The experts called on the Thai government to establish the truth and hold criminally responsible the perpetrators of the disappearance of human rights defender Somchai Neelapaijit. The experts said the investigations in the case remain inconclusive and warned that the authorities may close the legal proceedings. For more information, please see:

<http://sm.ohchr.org/lqw5c16>

²² Southern Border Provinces Operation Center reply to The National Human Rights Commission letter no. Sor Mor 003/ 1603, 22 July 2011 and Sor Mor 003/ Po 389, 8 September 2011.

²³ Justice for Peace Foundation, *Enforced Disappearance in Thailand*, *ibid* page 16-17. In 2012, Mayateng's family received compensation from the government of Thailand in the amount of 7.5 million baht, from the Committee on Compensation and Restitution for Affected Person of the Southern Unrest, chaired by the Minister of Justice. His disappearance is believed to involve some state officials and to be connected to the conflict in southern Thailand.

21. Although Thailand provides witness protection for witnesses in criminal cases through the Department of Rights and Liberties and the Department of Special Investigation in the Ministry of Justice, these two agencies are unable to gain the trust of witnesses as the Department of Rights and Liberties cooperates with the police in order to provide protection for witnesses. This causes witnesses in torture cases or enforced disappearance cases perpetrated by the police to feel as though they are not actually protected. Similarly, witnesses lack confidence in the integrity of the safety when they are under the protection of the Department of Special Investigation, in which the majority of the staff are former police officers. In December 2009, Abdullah Abukari, who was tortured by police and who was a witness in the case of the enforced disappearance and murder of Somchai Neelapaijit, disappeared while he was under the protection of the Department of Special Investigation. His fate and whereabouts remain unknown up until the present.²⁴
22. In 2004, Kamol Lausophaphan joined the People' Network against Corruption. He campaigned for a transparent local administrative election in 2006/7. He then began an investigation into corruption allegations against a local politician in a railway land project that led him to file a complaint of corruption against the Chief of the Municipality Office and the railway company. He also complained to the Baan Phai Police Station about the Chief of the Police ignoring the corruption. In January 2008, he complained of being beaten by Police Sargent Major Bualambat Sadao and four or five other policemen and asked for witness protection which he never received. The Superintendent of Police apologised to Kamol, but no officers were disciplined. On 9 February 2008, he spent the whole day going back and forth from the police station and was still there at 11.40 p.m. He has not been seen since. His car was found 20 days later parked at a hospital 15 kilometers from the police station.²⁵ His fate and whereabouts remain unknown.
23. There has been a persistent lack of access to truth, justice and remedies in cases of enforced disappearance. In all but one case, prosecutions have not taken place. In all cases, the whereabouts of the disappeared individual or his/her remains remain unknown.
24. Victims of torture face hardship in procuring witnesses and evidence of being tortured to present to the court. This is because the majority of the victims are not granted permission for their families, lawyers, or representatives from the National Human Rights Commission (NHRC) to visit them in detention immediately after they have been tortured. Victims are also unable to request immediate examination by a physician while in detention. In addition, some torture victims have been

²⁴ Justice for Peace Foundation, *Report for the 6th Anniversary of Enforced Disappearance of Somchai Neelapaijit : Marking the failure of the Thai justice system to provide truth, reparation and protection from human rights abuses*, March 2010, page 15

²⁵ *Ibid.*, page 36.

counter-charged by police on the accusation of giving false testimony about being tortured.²⁶

25. Reparation for torture and enforced disappearances has been extremely limited to a small number of cases in southern Thailand.²⁷
26. Judicial remedies, the right to truth and the right to reparations for enforced disappearances remain largely denied by the state in Thailand. The failure to define “enforced disappearance” as a crime in Thailand stands in the way of prosecutions. Compounding this is the weakness of investigatory and prosecution bodies that lack independence. In no case has there been an appropriate prosecution of the perpetrator of an enforced disappearance in Thailand. The right to truth is systematically denied as government agencies seek to hide rather than reveal the truth about enforced disappearances.
27. A combination of factors, including laws codifying the immunity of state officials, a politicized and sometimes weak criminal justice system (including the police, the Department of Special Investigation and the judiciary) and a concerning lack of political will, has resulted in impunity for security officials who are directly responsible or bear partial responsibility through the chain of command for serious crimes, including assault (torture) and murder (extrajudicial killing). Various governments have also failed to ensure the cessation and non-repetition of torture and enforced disappearances.

²⁶On 10 June 2011, Mr. Suderueman Malae, who was under the DSI’s witness protection program, was charged by two senior police officers in Black Case No. Or 2161/2552 with making a false statement regarding being tortured to the DSI’s inquiry officials and the NACC’s Inquiry Subcommittee. The plaintiffs filed the complaint with the Bangkok Criminal Court. See Cross Cultural Foundation, press release, “Torture Victim in Gun Robbery convicted to two years sentence for reporting false information on torture allegation to DSI and NACC,” 10 August 2011.

²⁷In June 2012, the Thai government set up the Committee on Compensation and Restitution for Affected Person of the Southern Unrest, chaired by the Minister of Justice, to compensate and rehabilitate people affected by violence in strife-torn southern Thailand. The Committee provided monetary compensation of 7,500,000 Thai baht to the families of victims of enforced disappearance and 500,000 Thai baht to the families and/or victims of torture, including Somchai Neelapaijit’s family. The compensation was granted on the grounds that Somchai Neelapaijit had been declared to be a “disappeared” person, and that his disappearance was believed to involve some state officials and to be connected to the conflict in southern Thailand. Notably, Angkhana Neelapaijit, Somchai’s wife, said that she would not accept the compensation if it extinguished the right to bring a criminal prosecution, which the Royal Thai Government accepted. See The Committee on Compensation and Restitution for Affected Person of the Southern Unrest, Meeting Minutes 6/2555, 2 July 2012.

The CAT Committee should recommend that the Thai Government undertake the following with regards to passage of necessary legislation, reform of existing practices, and active support of victim's rights:

- Demonstrate their commitment to respecting international human rights law by ratifying the Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. They should pass national legislation criminalizing ill-treatment, torture and enforced disappearance.
- Ensure that amnesty laws or similar measures – whether legal, administrative or judicial in nature – cannot be enacted to exempt perpetrators of disappearances from criminal proceedings.
- Make necessary changes in order that criminal investigations of state violence are not carried out by the regular police, especially not by local police officers in the area in which an offence is committed. The investigations should be carried out by an institution that is impartial and appropriately resourced. Staff should not be drawn from the regular police force.²⁸
- Give consideration to the establishment of an independent committee that would involve experts – possibly state officials or retired state officials – which would have responsibility for remedies, victim support and monitoring investigations.
- Guarantee reparations to the relatives of those forcibly disappeared, including restitution, compensation, rehabilitation and satisfaction. There is a need for reparation mechanisms at the national level for a range of human rights violations, including enforced disappearances.
- Amend witness protection legislation to ensure it meets international best practice, particularly with regard to the protection of witnesses of human rights violations.²⁹
- Provide witness protection to the families of victims, eyewitnesses and any concerned witnesses to ensure that they can give useful information during

²⁸In Thailand this institution is currently the DSI. However, it would need to be significantly changed and improved to ensure impartiality and effectiveness as an investigatory body. For example, concerns have been raised about their use of local police officers, the long delays in their investigations and their lack of impartiality. In addition, JPF's research indicates that DSI has rejected most of the disappearances cases which relatives petitioned them to investigate (DSI has accepted only Somchai's and Kamon's cases). In the cases DSI has accepted there has been extraordinarily limited progress made.

²⁹ Details of international best practice in the protection of witnesses of human rights violations can be found in International Commission of Jurists, *Witness Protection in Nepal: Recommendations from International Best Practices*, August 2011. In particular, see Annex II: Best Practice for the Development of a Witness Protection Framework, p. 40-88.

the investigation and trial with confidence that they will not face repression for doing so.

- Amend the Martial Law Act and the Emergency Decree to ensure compliance with international human rights law regarding detention as, for example, that which is included in the CAT and Disappearance Convention.³⁰
- Ensure that all detainees are kept in regular places of detention and have access to judicial scrutiny, medical health, habeas corpus, and independent monitoring of detainees and detention facilities on a regular basis and visits from their family and/or a lawyer of their choice.
- Establish an independent forensic science and medical institute with sufficient expertise and resources to ensure accurate and timely analyses of forensic evidence, especially related to crimes involving government officials.
- Until such time as an independent forensic science and medical institute is established in Thailand, the DSI and the police should invite the Central Institute of Forensic Science (CIFS) to take part in all investigations in which the suspected perpetrator is a government official.
- Urge the Public Prosecutor to play a more active role in seeking court action in regard to enforced disappearances, in line with the powers provided to the public prosecutor under Article 32 of the 2007 Constitution.³¹
- Ensure that all relatives of victims have access to legal assistance and protection to ensure their well-being and security.
- Recognize relatives' right to appear as co-prosecutors in cases of enforced disappearance.
- Urge the National Human Rights Commission (NHRC) of Thailand to play a far more active role in investigating cases of torture and enforced disappearances throughout Thailand. To achieve this, the NHRC should establish permanent field offices in each region of Thailand, with satellite offices in areas experiencing disproportionately high numbers of human

³⁰ The recommendations are drawn from the extensive analysis of Thailand's security legislation by the International Commission of Jurists. See *More Power, Less Accountability*, August 2005, and *Thailand's Internal Security Act: Risking the Rule of Law*, February 2010.

³¹ Article 32 of the Constitution states that: "A person shall enjoy right and liberty in his or her life and person ... In the case of the act affecting the right and liberty under paragraph one, an affected person, a public prosecutor, or other person acting on behalf of the affected person has the right to seek court action to stop or withdraw such an action including to determine proper measure or remedy for the accrued damage."

rights violations. The NHRC should play a more active role in pressuring the government to investigate and prosecute cases of enforced disappearances.

- Establish a national reparations commission for human rights violations that is mandated to provide reparations for material and moral damage suffered and prompt, fair and adequate compensation to victims. This commission should also be empowered to establish public memorials in cases of human rights violations. It should also have the power to recommend the Government to publically recognize the harm suffered as a result of the human rights violations.
- Ensure that in all cases of torture and enforced disappearances there is: (i) a prompt, thorough and independent investigation and prosecution of the accused; (ii) an establishment of the truth; and (iii) provision of reparations to the victim(s).
- Extend invitations to the UN Working group on Enforced or Involuntary Disappearances (WGEID) and the Special Rapporteur on Arbitrary Detention for their official visits to carry out investigations into the cases of enforced disappearance in Thailand to ensure transparency and bring justice to the victims and the families.