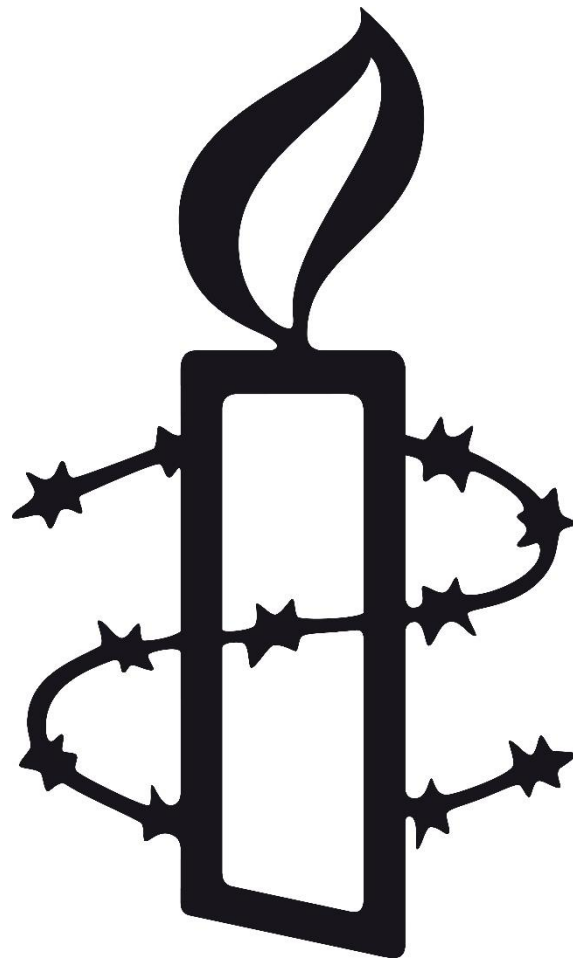


# THAILAND

SUBMISSION TO THE UN COMMITTEE AGAINST TORTURE  
81<sup>ST</sup> SESSION, 28 OCTOBER - 22 NOVEMBER 2024



# CONTENTS

<b>1.</b>	<b>INTRODUCTION</b>	<b>3</b>
<b>2.</b>	<b>INSUFFICIENT LEGAL SAFEGUARDS AND INEFFETIVE IMPLEMENTATION (ARTICLE 2, 10 AND 13)</b>	<b>3</b>
2.1	Domestic law on torture and enforced disappearance	3
2.2	National security laws	7
<b>3.</b>	<b>VIOLENCE AGAINST PROTESTERS AND HUMAN RIGHTS DEFENDERS (ARTICLES 13, 14, AND 16)</b>	<b>8</b>
3.1	Excessive use of force during protest dispersals	8
3.2	Arrest and detention of protesters, activists and human rights defenders	12
<b>4.</b>	<b>RIGHTS OF REFUGEES AND ASYLUM SEEKERS (ARTICLE 3, 11 AND 16)</b>	<b>15</b>
4.1	Non-refoulement	15
4.2	Indefinite detention	16
<b>5.</b>	<b>DEATH PENALTY (ARTICLE 16)</b>	<b>18</b>
<b>6.</b>	<b>GENDER-BASED VIOLENCE (ARTICLE 2, 14, AND 16)</b>	<b>19</b>
6.1	Physical violence against women and LGBTI people	19
6.2	Technology-facilitated gender-based violence	20
<b>7.</b>	<b>HUMAN RIGHTS DEFENDERS WORKING ON TORTURE AND OTHER ILL-TREATMENT (ARTICLES 2 AND 16)</b>	<b>23</b>
	<b>ANNEX I: SECTION 226 OF THE CRIMINAL PROCEDURE CODE</b>	<b>24</b>

Amnesty International submits this report ahead of the review of Thailand by the UN Committee against Torture in October 2024. It sets out Amnesty International’s key concerns on various issues related to torture and other cruel, degrading and inhuman treatments in Thailand.

# 1. INTRODUCTION

Amnesty International provides the below information to the UN Committee Against Torture (“the Committee”) ahead of the review of Thailand’s second periodic report in October 2024. It reflects Amnesty International’s key concerns about Thailand’s fulfilment of its international human rights obligations as a State Party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“the Convention”).

While the Committee raised various key concerns and provided recommendations to Thailand in the previous review in 2014, Thai authorities continue to fail to fully meet the legal obligations under the Convention to address torture and other cruel, inhuman or degrading treatment or punishment (“other ill-treatment”). Since the last review, Amnesty International is particularly concerned about insufficient legal safeguards against torture and other ill-treatments, excessive use of force, arrest, and detention of protesters and human rights defenders, failure to protect refugees and asylum seekers from refoulement and indefinite detention, retention of death penalty, violence against human rights defenders and gender-based violence against women and LGBTI people that we consider amounts to torture or cruel, inhuman or degrading treatment.

This submission is primarily based on Amnesty International’s own documentation, direct testimonies from civil society actors and protest observation, as well as secondary news reports, court records, legal and policy documents.

## 2. INSUFFICIENT LEGAL SAFEGUARDS AND INEFFETIVE IMPLEMENTATION (ARTICLE 2, 10 AND 13)

### 2.1 DOMESTIC LAW ON TORTURE AND ENFORCED DISAPPEARANCE

In the Concluding Observations from the review of Thailand’s initial report in 2014, the Committee expressed concerns that torture is not recognized as an offence under the Thai legal system.<sup>1</sup> It urged Thailand to “revise its legislation without delay, in order to: (a) To adopt a definition of torture that covers all the elements contained in article 1 of the Convention; (b) To include torture as a separate and specific crime in its legislation and ensure that penalties for the crime of torture are commensurate with the gravity of the crime, as required by article 4, paragraph 2, of the Convention; and (c) To ensure that acts amounting to torture are not subject to any statute of limitation.”<sup>2</sup>

On 25 October 2022, more than eight years after the first review, Thailand adopted the Prevention and Suppression of Torture and Enforced Disappearance Act (“the Act”).<sup>3</sup> The law came into effect from 22 February 2023 onwards.<sup>4</sup> This legislation criminalizes torture, other ill-treatment, and enforced disappearance, as well as prohibits returning individuals to a country where they may face these crimes (non-refoulement).<sup>5</sup>

---

<sup>1</sup> United Nations Committee Against Torture (CAT Committee), Concluding observations on the initial report of Thailand, 20 June 2014, UN Index: CAT/C/THA/CO/1, para 9.

<sup>2</sup> CAT Committee, Concluding observations on the initial report of Thailand, 20 June 2014, UN Index: CAT/C/THA/CO/1, para 9.

<sup>3</sup> UN Human Rights Office for South-East Asia (OHCHR), UN Human Rights Office welcomes Thailand’s enactment of the Prevention and Suppression of Torture and Enforced Disappearances Act, 31 October 2022, <https://bangkok.ohchr.org/thailand-antitorture-act/>.

<sup>4</sup> Amnesty International and International Commission of Jurists, Thailand: Law to address torture and enforced disappearance is an important step toward justice but its full enforcement is critical, 22 February 2023, Index no. ASA 39/6469/2023, <https://www.amnesty.org/en/documents/asa39/6469/2023/en/>.

<sup>5</sup> Thailand, Prevention and Suppression of Torture and Enforced Disappearance Act, 2023 (in Thai), <https://www.dsi.go.th/Upload/deff96562a91fd955a95ddd894618a6f.pdf>

The adoption of this law marked a crucial step for the implementation of Thailand's obligation under Article 2 of the Convention. However, based on a joint analysis by Amnesty International and the International Commission of Jurists, the current legal framework still contains many critical flaws:<sup>6</sup>

- (1.) The definition of "torture" under Article 5 of the Act still does not align with Article 1 of the Convention, despite the Committee's direct recommendation on this issue. The Act provides that an act only qualifies as torture if it is inflicted on a person for one of the four purposes: (a.) obtaining from the person or a third person information or a confession; (b.) punishing the person for an act he or a third person has committed or is suspected of having committed; or (c.) intimidating or coercing the person or a third person; or (d.) for any reason based on discrimination of any kind.<sup>7</sup>

Even though the four purposes identified are in line with the Convention's Article 1, the Act presented them as exhaustive, while the Convention makes clear that they are merely illustrative.<sup>8</sup> Therefore, the current definition poses limitations on classifying acts that could have amounted to torture under international law but do not fall under the given purposes.<sup>9</sup>

- (2.) Section 14 of the Act has established the 17-member Committee on the Prevention and Suppression of Torture and Enforced Disappearance (CPSTED). The CPSTED has many legal duties, including to "propose to the Cabinet or government agencies any amendments to the law, regulations and other measures necessary for the implementation of this Act"; "determine the policies and measures for comprehensive physical and mental reparations and remedies for affected persons, with a view towards restitution"; "determine measures for preventing recidivism, concealment of any deprivation of liberty, as well as protection measures for whistleblowers reporting on crimes under this Act"; and "investigate information and facts about torture, cruel, inhuman or degrading treatment, or enforced disappearance as provided by this Act, as well as receive and process complaints".<sup>10</sup>

Amnesty International assesses that the CPSTED's investigative function is not independent and effective, in line with the Istanbul Protocol. Members of any independent investigative body should be chosen for their recognized impartiality, competence and independence as individuals.<sup>11</sup> The CPSTED members include 11 high-level public officials, together with six independent experts. Among the 11 public officials included the Permanent-Secretary of Defense, the Permanent-Secretary of Interior, and the Commander-In-Chief of the Royal Thai Police. As pointed out by the Committee in the Concluding Observations from the first review in 2014, most instances of alleged torture, other ill-treatment and refoulement in Thailand are linked to military or police officers.<sup>12</sup> Given that these officials supervise police and military forces, their presence in the CPSTED can compromise the impartiality of the investigation. The CPSTED's composition falls short in terms of its capabilities to carry out a "prompt and impartial investigation" and "ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any given evidence" in line with Article 12 of the Convention.<sup>13</sup>

---

<sup>6</sup> Amnesty International and International Commission of Jurists, The ICJ and Amnesty International analysis of the existing shortcomings of the Draft Prevention and Suppression of Torture and Enforced Disappearance Act, 22 February 2023, [https://icj2.wpenginepowered.com/wp-content/uploads/2022/08/Final\\_analysis\\_shortcomings\\_24\\_Aug.Latest.pdf](https://icj2.wpenginepowered.com/wp-content/uploads/2022/08/Final_analysis_shortcomings_24_Aug.Latest.pdf).

<sup>7</sup> Thailand, Prevention and Suppression of Torture and Enforced Disappearance Act (previously cited), Article 5.

<sup>8</sup> Amnesty International and International Commission of Jurists, The ICJ and Amnesty International analysis of the existing shortcomings of the Draft Prevention and Suppression of Torture and Enforced Disappearance Act (previously cited).

<sup>9</sup> Amnesty International and International Commission of Jurists, The ICJ and Amnesty International analysis of the existing shortcomings of the Draft Prevention and Suppression of Torture and Enforced Disappearance Act (previously cited).

<sup>10</sup> Thailand, Prevention and Suppression of Torture and Enforced Disappearance Act (previously cited), Article 19.

<sup>11</sup> Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, principle 187.

<sup>12</sup> CAT Committee, Concluding observations on the initial report of Thailand (previously cited), para 10 and para 19(a).

<sup>13</sup> UN Convention Against Torture (CAT), Article 12.

Further, the CPSTED's, even when considered as a body responsible for assisting with the design of torture prevention policies in the country, lacks civil society participation and a semblance of independence due to it being formed by a majority of high-ranking public security officials. The OHCHR<sup>14</sup> and the Committee<sup>15</sup> have reinforced how states must give due consideration to the Paris Principles when designing human rights institutions responsible for addressing torture prevention, ensuring a minimum of independency and civil society participation. In addition, the CPSTED has no power to monitor and inspect places of detention, which could have been an effective method of preventing torture and other ill-treatment against individuals deprived of their liberty in line with the Committee's recommendation to Thailand to "[e]nsure the effective monitoring and inspection of all places of detention through regular and unannounced visits by independent national and international monitors, including non-governmental organizations [...]"<sup>16</sup>

- (3.) The Act does not contain a provision governing the inadmissibility of information obtained by torture, other ill-treatments, and enforced disappearance as evidence in court, even though the Committee recommended that Thailand ensured "[n]o one is coerced into testifying against themselves or others or confessing guilt and no such confession is accepted as evidence in court, except against a person accused of torture or other ill-treatment, as evidence that the confession or other statement was made".<sup>17</sup> Such a provision could have been an important safeguard and deterrent from torture and other ill-treatment.

Amnesty International notes that Sections 226/1 and 226/2 of the Thai Criminal Procedural Code still allow for courts to exercise their discretion to admit such evidence (See the full provisions in Annex I).

- (4.) The Act contains no clause to ensure no impunity for public officials who commit the offences under this law. The initial draft of the Act included such a clause; however, it was later removed during the legislative process.<sup>18</sup> Without this clause, responsible perpetrators could potentially be granted exemptions from liability and evade accountability for their crimes.

According to the UN's Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, the "perpetrators of serious crimes under international law", including torture and enforced disappearance, may not benefit from "measures related to amnesty".<sup>19</sup>

- (5.) The crimes of torture, other ill-treatment and enforced disappearance under this Act have a statute of limitations ranging from one to twenty years, depending on the severity of the punishment, even though the Committee, as mentioned above, recommended for Thailand to ensure there is no statute of limitations for acts amounting to torture.<sup>20</sup>

---

<sup>14</sup> Office of the High Commissioner for Human Rights, Preventing Torture: the Role of National Preventive Mechanisms, 2018, p. 15.

<sup>15</sup> CAT Committee, Concluding Observations: Somalia, 2022, CAT/C/SOM/CO/1, para. 12.

<sup>16</sup> CAT Committee, Concluding observations on the initial report of Thailand (previously cited), para 24.

<sup>17</sup> CAT Committee, Concluding observations on the initial report of Thailand (previously cited), para 12.

<sup>18</sup> Amnesty International and International Commission of Jurists, The ICJ and Amnesty International analysis of the existing shortcomings of the Draft Prevention and Suppression of Torture and Enforced Disappearance Act (previously cited), p. 2.

<sup>19</sup> UN Commission on Human Rights, Updated Set of principles for the protection and promotion of human rights through action to combat impunity, 8 February 2005, UN Index: E/CN.4/2005/102/Add.1, Principle 24. The same analysis can be found at Amnesty International and International Commission of Jurists, The ICJ and Amnesty International analysis of the existing shortcomings of the Draft Prevention and Suppression of Torture and Enforced Disappearance Act (previously cited), p. 2.

<sup>20</sup> CAT Committee, Concluding observations on the initial report of Thailand (previously cited), para 9 (c). Thailand's Second Periodic Report, submitted on 21 December 2021 to the Committee, stated, "[d]espite recalling paragraph 40 of the Committee's general comment No. 3 on the implementation of article 14 by States parties, Thailand continues to hold that it is not necessary to make either one of the offences an imprescriptible offence." See Royal Thai Government, Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018, 21 December 2021, UN Index: CAT/C/THA/2, para 7(l).

In addition to the existing limitations in the current legal framework, Amnesty International identified several barriers in implementing this law for civil society organizations, including difficulties in monitoring and reporting on cases of detention where individuals held face high risks of torture and lack of public educational programs regarding how to engage with existing mechanisms.

Human rights activists in Thailand's southern border provinces, where special security laws are in place (see more details below), reported that civilian officials, including public prosecutors who are an important focal point for monitoring deprivations of liberty under the Act, experienced limitations in accessing information about individuals detained in military facilities.<sup>21</sup> Local human rights organization Duay Jai Group informed Amnesty International that they have received a report in one case that military officers in Pattani Province verbally threatened a detainee whose family informed the public prosecutor that he was at risk of facing torture in military custody.<sup>22</sup>

Activists working with vulnerable communities of Indigenous and stateless people, as well as migrant workers, refugees, and asylum seekers, reported that they receive little information about how they could file complaints under this law.<sup>23</sup> Such lack of awareness highlights the strong need for Thai authorities to ensure the inclusion of education and information regarding the prohibition of torture and other ill-treatment under domestic and international law in training materials for state officials and others as required by Article 10 of the Convention.<sup>24</sup>

## RECOMMENDATIONS

Amnesty International recommends that Thailand:

- Immediately amend the Prevention and Suppression of Torture and Enforced Disappearance Act to ensure its full compliance with the Convention and other international human rights instruments, including:
  - o Bringing the definition of "torture" in line with Article 1 of the Convention by making the list of four purposes identified illustrative rather than exhaustive
  - o Revising the investigative function of the CPSTED and the composition of the CPSTED to ensure it can perform its duties effectively, independently, and impartially.
  - o Adding a provision to guarantee the inadmissibility of evidence obtained by means of torture, other ill-treatment and enforced disappearance in court, except as evidence against a person accused of torture or other ill-treatment
  - o Adding a provision to ensure no person who commit the offences under the Act could be exempted from criminal liability
  - o Removing the statute of limitations for the offences under this Act
- Immediately ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and guarantee a prompt implementation in setting up an effective national preventive mechanism, with ample civil society participation, including to victims of torture, other ill-treatment and enforced disappearance;
- Increase efforts and resources to build awareness and capacity for civil society groups, including members of marginalized communities in all regions of the country, in engaging with the implementation of this law

---

<sup>21</sup> Interview in person with representatives of Jaringan Mangsa Dari Undang-Undang Darurat (JASAD), Pattani-based NGO working on the human rights of detainees held under special laws, 17 July 2024, Pattani, and Interview in person with representatives from Duay Jai Group, Pattani-based NGO working on combatting torture, other ill-treatment and extrajudicial executions, 20 July 2024, Pattani.

<sup>22</sup> Interview in person with representatives from Duay Jai Group (previously cited).

<sup>23</sup> Interview with representatives from Titang Group, Chiang-Mai-based group working with stateless people, 9 August 2024, and HRDF, Chiang Mai, 9 August 2024

<sup>24</sup> CAT, Article 10.

- Effectively protect and assists survivors of torture and other ill-treatment, as well as their family members and other whistleblowers, by putting an end to any harassment and intimidation and investigate systematically any reported instances of such harassment and intimidation.

## 2.2 NATIONAL SECURITY LAWS

The Committee in its 2014 Concluding Observations to Thailand raised grave concerns regarding “special” security laws, including the 1914 Martial Law Act, the 2005 Emergency Decree and the 2008 Internal Security Act, that “provide for enlarged executive powers of administrative detention, without adequate judicial supervision, and weaken fundamental safeguards for persons deprived of their liberty.”<sup>25</sup> In addition, the Committee noted that the ineffectiveness of implementing safeguards against torture under these laws, as well as specific provisions, including section 7 of the Martial Law Act and section 17 of the Emergency Decree, that “explicitly limit the accountability of officials enforcing the state of emergency by granting immunity from prosecution for serious human rights violations, including acts of torture, in violation of the provisions of the Convention.”<sup>26</sup> According to article 4(2) of the International Covenant on Civil and Political Rights, states cannot derogate from the prohibition of torture even when under states of emergency.

As of the time of submission in September 2024, special security laws continue to apply throughout in Thailand’s southern border provinces, including Pattani, Yala, Narathiwat and four districts of Songkhla (Natawi, Chana, Sabayoi and Tepa). Exceptions apply in 15 districts in the provinces of Pattani, Yala and Narathiwat, where the government has revoked the enforcement of the Emergency Decree but continue to enforce the Internal Security Act.<sup>27</sup> Derogations from rights and states of emergency must be temporary and exceptional, with all measures and prorogations being sufficiently justified, as well as the territorial extension of the measures.<sup>28</sup>

Apart from the southern border provinces, the Martial Law continues to be in place in various border districts and sub-districts in 27 provinces around the country.<sup>29</sup>

These so-called “special laws” allow prolonged detention by military authorities without judicial oversight or proper legal safeguards. The Martial Law Act authorizes the military to conduct warrantless searches and arbitrary detention of individuals for up to seven days without judicial review.<sup>30</sup> Detainees are often held in military camps. The Emergency Decree permits initial detention of seven days, extendable in seven-day increments up to 30 days, with approval from a civilian court, though detainees do not need to appear in court.<sup>31</sup> In total, detainees can be held for up to 37 days with minimal judicial oversight, frequently thus increasing the risks of torture and other ill-treatment.

In an interview on 20 July 2024, representatives of JASAD, a Pattani-based NGO working on the human rights of detainees, told Amnesty International that military authorities continue using the Martial Law Act and Emergency Decree to arrest and detain individuals from Malay Muslim communities in the southern border provinces regularly for interrogating them regarding their suspected involvement with

<sup>25</sup> CAT Committee, Concluding observations on the initial report of Thailand (previously cited), para 12 (a).

<sup>26</sup> CAT Committee, Concluding observations on the initial report of Thailand (previously cited), para 12 (b) and (c).

<sup>27</sup> Matchon Online, กรมไฟฟ้า ต่อพ.ร.ก.ฉุกเฉินฯ 3 จังหวัดชายแดนใต้อีก 3 เดือน ถึง 19 ต.ค. 67, 9 July 2024, [https://www.maticion.co.th/politics/news\\_4671341](https://www.maticion.co.th/politics/news_4671341)

<sup>28</sup> Human Rights Committee, General Comment 29: Article 4: Derogations during a State of Emergency, UN Index CCPR/C/21/Rev.1/Add.11, para. 4.

<sup>29</sup> These provinces include: Amnat Charoen, Buriram, Chantaburi, Chumphon, Chiang Rai, Chiang Mai, Kanchanaburi, Loei, Maehongson, Mukdahan, Nakhon Panom, Nan, Nongkhai, Prachuap Khiri Khan, Phayao, Pitsanulok, Petchaburi, Ranong, Ratchaburi, Sakaew, Satun, Srisaket, Surin, Trat, Tak, Uttaradit, and Ubon Ratchathani. See Thailand, Announcement: Revoking or enforcing the use of Martial Law Act in some areas, 9 January 2008, <https://www.ratchakitcha.soc.go.th/DATA/PDF/2551/A/005/38.PDF> and Thailand, Announcement: Revoking the use of Martial Law Act in some areas, 4 May 2010, <https://www.ratchakitcha.soc.go.th/DATA/PDF/2553/A/029/4.PDF>.

<sup>30</sup> Thailand, Martial Law Act, 1914, Article 15 (ii). Article 15 (ii) states, “In cases where military personnel have sufficient reason to suspect any individual of being an enemy or of being in opposition to the contents of this Act or to the orders issued by military personnel, then military personnel have the authority to detain the individual for questioning or for the purposes of the military. But the individual may not be detained in excess of seven days.”

<sup>31</sup> Thailand, Emergency Decree, 2005, Article 12.

the armed insurgency in the region.<sup>32</sup> Detainees held under the special laws continue to have no access to lawyers and limited access to medical care and family visits.<sup>33</sup>

## RECOMMENDATIONS

Amnesty International recommends that Thailand:

- Amend or repeal security laws in force, including the Martial Law Act and the Emergency Decree, and the Internal Security Act, to ensure full human rights protection in all regions;
- Carry out independent, full, effective, and transparent investigations into torture and other human rights violations, including those that occurred in military facilities, during security operations and under states of emergency.
- Guarantee detainees have access to family members, lawyers, and independent doctors in a timely manner, including those held under special laws; and ensure independent and effective monitoring of these safeguards such as prompt and impartial judicial review of the lawfulness of detention.

# 3. VIOLENCE AGAINST PROTESTERS AND HUMAN RIGHTS DEFENDERS (ARTICLES 13, 14, AND 16)

## 3.1 EXCESSIVE USE OF FORCE DURING PROTEST DISPERSALS

### Unlawful use of less-lethal weapons against pro-democracy protesters

Between 2020 and 2022, when pro-democracy protests took place across Thailand, Amnesty International documented multiple instances of extra-custodial use of force by Thai authorities, especially riot control police, against peaceful protesters. Under international human rights standards, law enforcement officers may use progressive force, including less-lethal weapons, under strict regulations, operating procedures, training and accountability measures.<sup>34</sup> However, in the instances outlined below, Amnesty International assessed the use of force, including with less-lethal weapons such as kinetic impact projectiles (KIPs) or rubber bullets, to be disproportionate, unnecessary and unjustifiable.

Even though KIPs are not inherently cruel, inhuman or degrading, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has underlined that they “carry a significant risk of causing unnecessary or excessive injury”.<sup>35</sup> International human rights standards provide that KIPs may be used as a last resort against violent persons who could pose an imminent threat of severe harms to others.<sup>36</sup> Nonetheless, they must never be used punitively or indiscriminately against peaceful protesters. Amnesty International considers that such usage can constitute acts of torture or other ill-treatment.<sup>37</sup>

---

<sup>32</sup> Interview with representatives of JASAD (previously cited).

<sup>33</sup> Interview with representatives of JASAD (previously cited).

<sup>34</sup> Amnesty International, Combating torture and other ill-treatment: a manual for action, Index: POL 30/4036/2016, 11 November 2016, <https://www.amnesty.org/en/documents/pol30/4036/2016/en/>, p. 191. Such standards include the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement and the Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests.

<sup>35</sup> UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (UN SR on Torture), Report on the extra-custodial use of force and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, UN Index: A/72/178, 21 July 2017, para 53.

<sup>36</sup> Amnesty International, “My Eye Exploded”: the Global Abuse of Kinetic Impact Projectiles, Index: ACT 30/6384/2023, 14 March 2023, <https://www.amnesty.org/en/documents/act30/6384/2023/en/>, p. 14.

<sup>37</sup> Amnesty International, “My Eye Exploded”: the Global Abuse of Kinetic Impact Projectiles (previously cited).



This interpretation is in line with the jurisprudence of the Committee,<sup>38</sup> as well as the UN Special Rapporteur who stated, “[T]he prohibition of torture and other cruel, inhuman or degrading treatment or punishment is not confined to acts carried out against persons deprived of their liberty, but also covers excessive police violence, such as during arrest and the policing of assemblies [...]”<sup>39</sup>

Amnesty International’s research documented several instances where Thai riot police officers unlawfully fired rubber bullets at peaceful protesters between late 2020 and early 2021.<sup>40</sup> For instance, on 28 February 2021, police authorities fired rubber bullets randomly on peaceful protesters marching towards the residence of former Prime Minister Prayut Chan-o-cha near the 1<sup>st</sup> Infantry Battalion base in Bangkok without a prior warning.<sup>41</sup> Among the protesters shot with rubber bullets included a 16-year-old boy who got shot multiple times in the waist and calves.<sup>42</sup>

Amnesty International found two instances where police authorities unlawfully fired rubber bullets at three peaceful protesters and caused them serious eye injuries. On 13 August 2021, police authorities violently used tear gas and rubber bullets to disperse a peaceful anti-government march in Bangkok where protesters again planned to walk towards the house of former Prime Minister Prayut Chan-o-cha. During this incident, two protesters – Tanakorn Parnpanich and Tanat Thanakitamnuy – were shot in the faces by riot control police officers. The shooting resulted in serious injuries that led to permanent blindness in the right eyes for both men; Tanakorn also partially lost his vision in his left eye.<sup>43</sup>

On 22 August 2023, the Bangkok Civil Court ordered the Royal Thai Police to provide monetary compensation of 4.2 million Thai baht and 3.05 million Thai baht to Tanakorn and Tanat, respectively.<sup>44</sup> However, no responsible police officer has been held criminally accountable or even faced disciplinary actions for the excessive use of force.

On 18 November 2022, the police attempted to stop a peaceful demonstration during the 2022 Asia Pacific Economic Cooperation (APEC) Summit in Bangkok. Hundreds of protesters marched against the then-government’s Bio-Circular-Green Economy (BCG) Policy, which they believed to be an act of green-washing. Riot police officers used batons, tear gas and rubber bullets against the protesters. Environmental justice defender Payu Boonsophon, who was one of the protest organizers, was shot in his right eye by these officers, resulting in permanent blindness.<sup>45</sup> Similar to the case of the 13 August 2021 protest, no officer responsible for this incident faced criminal or disciplinary actions.

The Royal Thai Police’s own Public Assembly Policing Guidelines specifies that rubber bullets should be “aimed at persons whose acts are violent or potentially harmful to other people’s lives, with clear targets, not used indiscriminately, not used automatically, and aimed at the bottom half of the target person’s body”.<sup>46</sup> Accordingly, the use of KIPs against peaceful protesters in the cases did not only constitute acts of torture, or at the very least, other ill-treatment under international law. It also contravenes the standards set out by the Royal Thai Police themselves.

---

<sup>38</sup> For example, the Committee interpreted in the case of V.L. v. Switzerland that a case of sexual abuse by police officers constituted torture even though it was perpetrated outside formal detention facilities, as the complainant of this case was “clearly under the physical control of the police”. See CAT Committee, Decision: Communication No. 262/2005, UN Index: CAT/C/37/D/262/2005, 22 January 2007, para 8.10. See also the CAT Committee’s application of the Convention on cases of excessive use of force with less-lethal weapons against protesters in South Korea at CAT Committee, Concluding observations on the combined third to fifth periodic reports of the Republic of Korea, UN Index: CAT/C/VEN/CO/3-4, 30 May 2017, para 13.

<sup>39</sup> UN SR on Torture, Report on the extra-custodial use of force and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (previously cited), para 34

<sup>40</sup> Amnesty International, “My face burned as if on fire”: Unlawful use of force by Thailand’s police during public assemblies, Index: ASA 39/4356/2021, 2 July 2021, <https://www.amnesty.org/en/documents/asa39/4356/2021/en/>, p. 30.

<sup>41</sup> iLaw, ข้อเท็จจริงเหตุการณ์ความรุนแรง #เมื่อ28กุมภาพันธ์, 2 March 2021, <https://www.ilaw.or.th/articles/9748>.

<sup>42</sup> Amnesty International, “My face burned as if on fire”: Unlawful use of force by Thailand’s police during public assemblies (previously cited), p. 32

<sup>43</sup> Amnesty International Thailand, คางดาเม็ดบอล ครอบครัแตกสลาย ผลพวงจากการใช้กระสุนยางของเจ้าหน้าที่รัฐ, 20 July 2023, <https://www.amnesty.org.th/latest/blog/1148/>

<sup>44</sup> The Matter, ศาลสั่งให้สำนักงานตำรวจแห่งชาติจ่ายค่าเสียหาย 3 ล้านให้ ‘ไอโซลูกหนัก’ ปมบาดเจ็บจากการสลายการชุมนุม, 22 August 2023, <https://thematter.co/brief/211285/211285>

<sup>45</sup> Amnesty International, Payu: “A rubber bullet cost me an eye at a protest, but I am still protesting”, 12 April 2024,

<https://www.amnesty.org/en/latest/campaigns/2024/04/a-rubber-bullet-cost-me-an-eye-at-a-protest-but-i-am-still-protesting/>

<sup>46</sup> Amnesty International, “My face burned as if on fire”: Unlawful use of force by Thailand’s police during public assemblies (previously cited), p. 41.

## RECOMMENDATIONS

Amnesty International recommends that Thailand:

- Carry out a prompt, impartial, transparent, independent and thorough investigations by civil authorities into all the cases of unlawful uses of KIPs against peaceful protesters and ensure full administrative, civil and criminal accountability;
- Provide adequate and prompt remedy including appropriate medical care and rehabilitation, restitution, and fair and adequate financial compensation to those impacted by reckless and/or unlawful use of KIPs;
- Amend the national law on torture and enforced disappearance to ensure the prohibition of torture and other ill-treatment in all circumstances, including extra-custodial settings. The definition of torture and ill-treatment in relevant laws and regulations should not be confined to acts carried out against persons deprived of their liberty, but should also apply in extra-custodial settings;
- Ensure that the approaches and practices adopted for protecting and facilitating public assemblies are in line with international human rights law and that any use of force is a last resort and limited to that which is strictly necessary in the circumstances;
- Revise laws and policies related to the facilitation of public assemblies to ensure compliance, including in terms of the use of force, with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement and the Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests;
- Ensure that law enforcement officers, especially those involved in facilitating public assemblies, strictly follow guidelines provided by international human rights standards listed above;

### Tak Bai protest dispersal and killings of Malay Muslim protesters

There was still no accountability for the deaths of 85 people who were shot or died after being arrested during the mass protest on 25 October 2004 to demand the release of six Malay Muslim men from Tak Bai Police Station in Narathiwat province, one of Thailand's southern border provinces.<sup>47</sup> Protesters, numbering about 2,000, believed the detainees were wrongfully held. In response to protests after failed negotiations, security forces used tear gas, water cannons, and live ammunition, killing seven protesters instantly—five of whom were shot in the head. Injuries included a 12-year-old boy shot at home, 300 meters from the police station.

After the crackdown, about 1,370 detained Malay Muslim men were transported to Ingkayut Borihan Military Camp in Pattani, 150 kilometers away. Authorities tied the detainees' hands and loaded into over-crowded army trucks, forcing them to lie on top of one another. As a result of this brutal means of transportation, 78 detainees died from crushing or asphyxiation during transit. Many survivors suffered severe injuries and permanent disabilities. Amnesty International considers that this incident amounted to gross human rights violations, including torture, against the detainees.

The then-government established an "independent fact-finding committee" tasked to investigate the incident. The committee, on 17 December 2004, released its findings that condemned the use of excessive force, asserting that the protest dispersal was "inappropriate and inconsistent with internationally recognized standards and practices".<sup>48</sup> It also criticized the "extremely poor judgement from the part of relevant commanding officers".<sup>49</sup>

---

<sup>47</sup> Amnesty International, Thailand: Thai authorities must act now to deliver justice for victims of the brutal protest dispersal in Tak Bai, Index: ASA 39/7348/2023, 24 October 2023, <https://www.amnesty.org/en/documents/asa39/7348/2023/en/>

<sup>48</sup> Independent Fact-Finding Committee on the Deaths during the Tak Bai Incident in Narathiwat Province on 25 October 2004 (Tak Bai Fact-Finding Committee), Finding report, <https://prachatai.com/sites/default/files/special/takbai.pdf>, p.45.

<sup>49</sup> Tak Bai Fact-Finding Committee, Finding report (previously cited), p. 47.

Despite compensation for victims and official promises to deliver justice for the victims, no officers identified by the committee have faced prosecution.<sup>50</sup> Amnesty International's research showed that the victims and their families encountered various obstacles when attempting to bring the perpetrators to court.<sup>51</sup> In 2009, the Songkhla Provincial Court ruled in the post-mortem inquest into the 78 deaths with a conclusion that the protesters died without any further clarification on the perpetrators who suffocated the protesters.<sup>52</sup> Even though the victims' families challenged this ruling, the Supreme Court eventually ruled on 1 August 2013 that the security forces were blameless as they were only performing their duties.<sup>53</sup>

In April 2024, victims resumed the efforts to pursue justice in this case by initiating a lawsuit against nine high-ranking officials seeking justice. On 23 August 2024, the Narathiwat Provincial Court today ruled in favour of a request from the victims and their families to file a criminal lawsuit against officials suspected to be responsible for human rights violations during the incident.<sup>54</sup> Out of the nine officials sued by the victims and their families, the Court determined there is sufficient evidence to pursue a lawsuit against seven of them, including former high-ranking military and police officers, under the offences of murder, attempted murder and illegal detention.<sup>55</sup> Among the defendants include the former Army Region 4 commander who is currently serving as an MP for the ruling Pheu Thai party.<sup>56</sup>

In a related case, on 18 September 2024, the Office of the Attorney General ordered the indictment of eight security officers involved in the transportation of the detainees to Ingkayut Borihan Military Camp under the charge of premeditated murder. Unlike the case initiated by the victims and their families, the public prosecutors' case primarily included lower-ranking officers and did not include the former Army Region 4 commander, the highest-ranking military leader in charge of overseeing security-related matters in southern Thailand at the time of the incident.<sup>57</sup>

In both cases, none of the defendants have appeared before court. At the time of submission, arrest warrants have been issued against all the defendants, except the former Army Region 4 commander who has only been summoned because of his legal immunity as a parliamentarian.<sup>58</sup> Law enforcement authorities are responsible for bringing the defendants to court. Amnesty International notes with grave concerns that the statute of limitations will not be halted unless at least one of the defendants is brought before the court before 25 October 2024, when the possibility of accountability is set to expire.<sup>59</sup>

## RECOMMENDATIONS

Amnesty International recommends that Thailand:

- Immediately take all the necessary measures to ensure that the statute of limitations for the case of Tak Bai protest dispersal does not expire;
- Ensure accountability for all officers responsible for the unlawful dispersal that resulted in the deaths and severe injuries of protesters, including the chain of command;
- Officially acknowledge the truth about human rights violations committed during the Tak Bai incident and provide adequate remedies to survivors and their families.

---

<sup>50</sup> Amnesty International, Thailand: Thai authorities must act now to deliver justice for victims of the brutal protest dispersal in Tak Bai (previously cited).

<sup>51</sup> Amnesty International, Thailand: Thai authorities must act now to deliver justice for victims of the brutal protest dispersal in Tak Bai (previously cited).

<sup>52</sup> Amnesty International, Thailand: Thai authorities must act now to deliver justice for victims of the brutal protest dispersal in Tak Bai (previously cited).

<sup>53</sup> Amnesty International, Thailand: Thai authorities must act now to deliver justice for victims of the brutal protest dispersal in Tak Bai (previously cited).

<sup>54</sup> Amnesty International, Thailand: Court decision on Tak Bai protest lawsuit a crucial first step towards justice, 23 August 2024, <https://www.amnesty.org/en/latest/news/2024/08/thailand-court-decision-on-tak-bai-protest-lawsuit-a-crucial-first-step-towards-justice/>

<sup>55</sup> Amnesty International, Thailand: Court decision on Tak Bai protest lawsuit a crucial first step towards justice (previously cited).

<sup>56</sup> Bangkok Post, Tawee says no Gen Pisal warrant seen, 25 September 2024, <https://www.bangkokpost.com/thailand/general/2871647/tawee-says-no-gen-pisal-warrant-seen>.

<sup>57</sup> Thai PBS, Eight face indictment for deadly Tak Bai incident 20 years ago, 18 September 2024, <https://world.thaipbs.or.th/detail/eight-face-indictment-deadly-tak-bai-incident-20-years-ago/54784>

<sup>58</sup> Bangkok Post, Tawee says no Gen Pisal warrant seen (previously cited).

<sup>59</sup> Amnesty International, Thailand: Court decision on Tak Bai protest lawsuit a crucial first step towards justice (previously cited).

## 3.2 ARREST AND DETENTION OF PROTESTERS, ACTIVISTS AND HUMAN RIGHTS DEFENDERS

### Torture, other ill-treatment and deaths in custody

Amnesty International has recently documented a concerning pattern of protesters and human rights defenders being held in detention – oftentimes arbitrarily - and at risk of torture or other ill treatment.

As of September 2024, at least 41 individuals involved in protests were in detention, 19 of whom had been sentenced to imprisonment, whereas 21 were still in pre-trial detention.<sup>60</sup> Of the 21 people in pre-trial detention, 16 have been charged with the lèse-majesté offence.<sup>61</sup> While international law provides that pre-trial detention should be used only as an exception and should be applied for as short a period as possible,<sup>62</sup> many of the activists charged under the lèse-majesté offence due to their peaceful expressions have been denied temporary release on bail and remained deprived of liberty for more than a year, even though the court still has not delivered a final verdict in their cases.<sup>63</sup>

Amnesty International found that in one case, two protesters were subjected to torture in police detention. On 29 October 2021, both travelled to attend the candle vigil to demand justice for Warit Somnoi, a 15-year-old protester who was shot dead in front of Din Daeng Police Station.<sup>64</sup> Police officers used violent force to disperse the gathering and then arrested and detained them at the Din Daeng Police Station for one night.<sup>65</sup> During the detention period, police officers beat and choked them, burned them with cigarettes, and threatened to kill them.<sup>66</sup>

Following the incident, one of the torture survivors in this case filed both criminal and civil lawsuits against the responsible police officers and the Royal Thai Police, respectively. No progress has been made for the criminal lawsuit.<sup>67</sup> However, for the civil lawsuit, the Southern Bangkok Civil Court regrettably dismissed the lawsuit and ruled in favor of the Royal Thai Police, despite photographic and medical records of the torture survivor's injuries.<sup>68</sup>

On 14 May 2024, Amnesty International recorded the case of Netiporn 'Bung Sanesangkhom, a 28-year-old woman activist, who died in custody while she was held in pre-trial detention under a lèse-majesté case. This case stemmed from her peaceful activism in conducting a public opinion poll on 8 February 2022 about road traffic controls imposed during royal motorcades.

On 26 January 2024, Netiporn was sentenced to one month's imprisonment for contempt of court. In late February 2024, her detention was then extended, as the Bangkok Criminal Court revoked bail and remanded her in custody for the same aforementioned lèse-majesté case against her, whose trial was still pending. Starting on 27 January 2024, she went on a hunger strike for more than 65 days to protest her detention and the detention of other activists. Eventually, she reportedly suffered a cardiac arrest on 14 May 2024 and passed away in the Central Women's Correctional Institute Hospital. On 15 May, the Department of Corrections announced to set up a committee to investigate on the incident.<sup>69</sup>

---

<sup>60</sup> Thai Lawyers for Human Rights, รายชื่อผู้ต้องขังทางการเมือง 2567, 9 September 2024, <https://tlhr2014.com/archives/63015>

<sup>61</sup> Thai Lawyers for Human Rights, รายชื่อผู้ต้องขังทางการเมือง 2567 (previously cited).

<sup>62</sup> Amnesty International, Combating torture and other ill-treatment: a manual for action (previously cited), p. 208, See also ICCPR, Article 9(3); and Human Rights Committee, General Comment No. 35, para 37.

<sup>63</sup> Thai Lawyers for Human Rights, รายชื่อผู้ต้องขังทางการเมือง 2567 (previously cited).

<sup>64</sup> <https://crcfthailand.org/2023/04/03/the-civil-court-accepts-the-lawsuit-the-case-of-atthasit-nussa-sued-rtp-for-being-assaulted-by-the-police/>

<sup>65</sup> Human Rights Watch, Thailand: Police Torture Political Activists, 3 November 2021, <https://www.hrw.org/news/2021/11/03/thailand-police-torture-political-activists>

<sup>66</sup> Human Rights Watch, Thailand: Police Torture Political Activists (previously cited).

<sup>67</sup> Cross Cultural Foundation, อรรถสิทธิ์ นุสตะ ถูกตำรวจซ้อมทรมานที่ สน.ดินแดง เมื่อปี 2564 เตรียมอุทธรณ์ หลังศาลไม่เชื่อว่าบาดเจ็บจากการทรมาน, 26 August 2024, <https://crcfthailand.org/2024/08/26/atthasit-nussa-was-tortured-by-police-at-din-daeng-police-station-in-2021-prepare-an-appeal-after-the-court-did-not-believe-that-the-wound-was-caused-by-torture/>

<sup>68</sup> Cross Cultural Foundation, อรรถสิทธิ์ นุสตะ ถูกตำรวจซ้อมทรมานที่ สน.ดินแดง เมื่อปี 2564 เตรียมอุทธรณ์ หลังศาลไม่เชื่อว่าบาดเจ็บจากการทรมาน (previously cited). In this case, the torture survivor sued the Royal Thai Police and demanded the monetary compensation of 3.3 million Thai baht, accusing the police officers at the Din Daeng Police Station of violating the 1996 Act on Wrongful Act Liability of Officials.

<sup>69</sup> <https://workpointtoday.com/update-politics-bung/>

However, Netiporn's family and lawyer reportedly has not received updates on the status of the investigation and the conclusions.<sup>70</sup> Further, the public prosecutor has not submitted inquiry motion to the Court regarding Netiporn's death, despite having the legal power to do so.<sup>71</sup>

## RECOMMENDATIONS

Amnesty International recommends that Thailand:

- Immediately take all the necessary measures to minimize risks of torture and other ill-treatment against individuals involved in peaceful assemblies, including:
  - o Conduct a thorough review of the bail process to align it with international human rights law and standards, ensuring that pre-trial detention is the exception rather than the rule;
  - o Immediately and unconditionally release individuals from arbitrary detention, drop criminal investigations and prosecutions and quash convictions related solely to their exercise of their rights to freedom of expression, peaceful assembly or other human rights;
- Conduct a prompt, effective, thorough, independent, impartial and transparent investigation into the torture and other ill treatment of two protesters by police officers from Din Daeng Police Station in line with international human rights law and standards, the Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. If the investigation shows that the protesters faced torture or other ill treatment, ensure accountability and provide effective remedies for the survivors;
- Conduct a prompt, effective, thorough, independent, impartial and transparent investigation into the circumstances and cause of Netiporn's death, in line with international human rights law and standards, including in the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), to establish accountability and prevent future occurrences;
- Ensure the right to health for all detainees with the same standards available to the general population, including by providing prompt access to medical attention and necessary specialized treatment or surgery as needed.

## Arrest and detention of child activists and human rights defenders

Between 2020 and 2024, Amnesty International recorded many cases of arbitrary arrest and detention of child activists and human rights defenders who engaged in peaceful protests. Below are the key cases of such arrest and detention that amounted to cruel, inhumane, and degrading treatment due to serious physical and mental harms experienced by the victims.

On 20 March 2021, 14-year-old and 15-year-old activists were arrested by police officers at night after peacefully participating in a protest where they criticized the government and the monarchy.<sup>72</sup> The young protesters were detained at the Office of Border Patrol Police Region 1, together in the same room as adult protesters. The detention inflicted severe negative mental impacts, including post-traumatic stress disorder, for one of the young protesters.<sup>73</sup>

On 15 April 2022, a group of young human rights defenders – who were 13, 16 and 17 years old - were physically dragged out of a restaurant at Bangkok's Democracy Monument by female police officers and officers from the Ministry of Social Development and Human Security (MSDHS).<sup>74</sup> Authorities claimed that they were trying to stop the activists from staging a protest and took them to the MSDHS's

---

<sup>70</sup> <https://tlhr2014.com/archives/69367>

<sup>71</sup> <https://tlhr2014.com/archives/69367>

<sup>72</sup> Amnesty International, Thailand: "We are reclaiming our future": Children's right to peaceful assembly in Thailand, Index: ASA 39/6336/2023, 8 February 2023, <https://www.amnesty.org/en/documents/asa39/6336/2023/en/>, p. 17.

<sup>73</sup> Amnesty International, Thailand: "We are reclaiming our future": Children's right to peaceful assembly in Thailand (previously cited), p. 18.

<sup>74</sup> Amnesty International, Thailand: "We are reclaiming our future": Children's right to peaceful assembly in Thailand (previously cited), p. 30.

building and subsequently transferred to the Police Club on Vibhavadi Rangsit Road. The activists were held for approximately five and a half hours at the Police Club before being released without charge in the evening. Authorities justified that they had the power to detain the young activists under the Child Protection Act, whose Article 30(2) authorizes the competent official to detain a child for up to 12 hours in case the official suspects the child is at risk of violating the law and in need of “assistance or welfare protection.” This incident caused fear and trauma among the young activists detained.

On 28 March 2023, another 15-year-old activist was arrested by eight police officers from the Royal Palace Police Station in Bangkok. The arrest was in connection with her participation in a peaceful protest for which she faced three charges, including violation of section 112 (lèse-majesté) of the Criminal Code; violation of the Advertisement by Using Sound Amplifiers Control Act B.E. 2493; and violation of section 368 (failure to comply with officer’s order) of the Criminal Code.<sup>75</sup> The activist was then held in pre-trial detention at the Baan Pranee Juvenile Vocational Training Center for Girls in Nakhon Pathom Province.<sup>76</sup> After 51 days of detention, the activist was released on temporary bail; she reportedly developed acute rash on her back due to the lack of proper medical care during the detention period.<sup>77</sup>

In these instances, Amnesty International found that Thai authorities’ intentional targeting of peaceful child activists and human rights defenders by means of arbitrary arrest and detention has inflicted both physical and mental harms on the young victims to the extent that it qualifies as acts of ill-treatment. Such instances constitute a violation not only of the Convention’s prohibition of torture and other ill-treatment, but also breaches the Convention on the Rights of the Child (CRC) to which Thailand is also a State Party.<sup>78</sup> Article 37 of the CRC provides that “[n]o child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment”;<sup>79</sup> and requires that “no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time”.<sup>80</sup>

## RECOMMENDATIONS

Amnesty International recommends that Thailand:

- Amend or repeal problematic provisions of laws used to arbitrarily arrest and detain child activists and human rights defenders, including but not limited to the lèse-majesté law (Article 112 of the Criminal Code), the sedition law (Article 116 of the Criminal Code), the Public Assembly Act, and the Computer Crimes Act;
- Provide effective remedies to the child activists and human rights defenders who were subjected to arbitrary arrest and detention;
- Ensure the integration of child protection in national policies, measures and practices related to the suppression and prevention of torture and other ill-treatment
- Ensure that law enforcement and other relevant officials are trained on children’s rights in peaceful assemblies;

---

<sup>75</sup> UN experts, Letter to the Thai government on the detention of a 15-year-old child human rights defender, UN Index: AL THA 2/2023, 5 May 2023, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=28064>.

<sup>76</sup> Amnesty International, Thailand: 15-year-old girl held in pre-trial detention for lèse-majesté, 30 March 2024, <https://www.amnesty.org/en/latest/news/2023/03/thailand-royal-defamation-girl-detained/>

<sup>77</sup> Thai Lawyers for Human Rights, From Classroom to Courtroom: Report Release on Children’s Rights to Freedom of Expression and Assembly in Thailand, 12 January 2024, <https://tlhr2014.com/en/archives/63105>

<sup>78</sup> OHCHR, Treaty Body Database, [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=THA&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=THA&Lang=EN), Accessed on 1 September 2024.

<sup>79</sup> Convention on the Rights of the Child (CRC), Article 37(a),

<sup>80</sup> CRC, Article 37(b).

## 4. RIGHTS OF REFUGEES AND ASYLUM SEEKERS (ARTICLE 3, 11 AND 16)

### 4.1 NON-REFOULEMENT

The Committee raised concerns during the previous review regarding “reports of refoulement of asylum seekers, as well as the absence of a national legal framework regulating expulsion, refoulement and extradition, consistent with the requirements of article 3 of the Convention”.<sup>81</sup>

In its State Report submitted to the Committee in December 2021, the Thai government affirmed that “[w]hile not party to the 1951 Convention Relating to the Status of Refugees, Thailand respects the principle of non-refoulement and has worked systematically with all sectors in the country to protect those who fled conflict and those who sought asylum, in accordance with applicable international standards.” Since February 2023, when the Prevention and Suppression of Torture and Enforced Disappearance Act came into force, Thai authorities are prohibited from expelling, deporting or extraditing a person to another country “where there are substantial grounds for believing the person would be in danger of torture, cruel, inhuman, or degrading treatment or enforced disappearance”.<sup>82</sup>

Despite these commitments and their international and domestic obligations, during the period under review, Amnesty International recorded various cases of abduction and forcible returns, as well as cases of potential refoulement, particularly for Chinese and Vietnamese activists who were seeking asylum in Thailand. In many cases, these forced returns happen without judicial oversight and without an assessment of the risks should they be returned.<sup>83</sup>

On 13 November 2015, the Thai government forcibly returned activists Dong Guangping and Jiang Yefei to China, despite severe risks of torture, other ill-treatment and unfair trials.<sup>84</sup> Dong was previously tortured in China in May and August of 2008 after criticizing the official response to the 2008 earthquake in China’s Sichuan province. Meanwhile, Dong Guangping was detained by Chinese authorities from May 2014 to February 2015 after participating in an event commemorating victims of the 1989 Tiananmen Square crackdown. Prior to the refoulement, both activists sought asylum in Thailand and received their status as refugees recognized by the United Nations High Commission for Refugees (UNHCR). They were scheduled to resettle to a third country on 18 November 2015.

Vietnamese journalist Truong Duy Nhat, who was a prisoner of conscience jailed in Viet Nam from 2013 and 2015 on charges of “conducting propaganda against the state”, was stopped by four Thai police officers at the Future Park mall in Bangkok on 26 January 2019 - the day after he filed a refugee application with the UNHCR’s office in Thailand.<sup>85</sup> After taking him to a restaurant for a meal, police officers drove him to another location where they delivered him to a group of Vietnamese police officials.<sup>86</sup> Shortly afterwards, it was revealed that Nhat was held at Hanoi T16 centre, where he experienced poor detention conditions including overcrowding of his cell and the lack of adequate

---

<sup>81</sup> CAT Committee, Concluding observations on the initial report of Thailand (previously cited), para 20.

<sup>82</sup> Thailand, Prevention and Suppression of Torture and Enforced Disappearance Act (previously cited), Article 13.

<sup>83</sup> Amnesty International, Thailand: Between a rock and a hard place, Index: ASA 39/7031/2017, 28 September 2017, <https://www.amnesty.org/en/documents/asa39/7031/2017/en/>

<sup>84</sup> Amnesty International, Urgent Action: 42 months in prison for forcibly returned activist, Index: ASA 17/8845/2018, 31 July 2018, <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA1788452018ENGLISH.pdf>.

<sup>85</sup> Amnesty International, Thailand: Authorities must investigate abduction of Vietnamese journalist, 21 June 2019, <https://www.amnesty.org/en/latest/press-release/2019/06/thailand-authorities-investigate-abduction-vietnamese-journalist/>

<sup>86</sup> Amnesty International, Thailand: Authorities must investigate abduction of Vietnamese journalist (previously cited).

medical care.<sup>87</sup> Later, Nhat was convicted to ten years' imprisonment for 'abusing his position and power while on duty' under article 356 (3) of the Vietnamese Criminal Code.<sup>88</sup>

On 13 April 2023, prominent Vietnamese blogger Thai Van Doung, who received refugee status in Thailand from UNHCR in 2020, went missing in Bangkok. Around three months later, on 5 July 2023, Vietnamese police announced that Duong Van Thai was detained in Viet Nam while awaiting trial under the charge of "conducting propaganda against the state". Witness testimony and audio recordings on file with Amnesty International suggested that Vietnamese state agents may have been involved in capturing the blogger in Bangkok.<sup>89</sup>

On 11 June 2024, Y Quynh Bdap, a Montagnard and Ede Indigenous human rights defender who has been recognized as a refugee by the UNHCR, was arrested in Thai authorities for overstaying his visa.<sup>90</sup> The arrest was also made in connection with an extradition request by Vietnamese authorities.<sup>91</sup> At the time of submission in September 2024, Thai authorities continue to proceed with the extradition trial against Bdap, despite calls from UN experts and civil society organizations that the human rights defender could face severe risks of torture and other ill-treatment if he is forcibly returned to Viet Nam.<sup>92</sup> Wang Mai,

In addition to the cases of Vietnamese activists, asylum seekers who fled persecution and other serious human rights violations, including forced military conscription, from Myanmar to Thailand, faced a high risk of refoulement by Thai authorities. If forcibly returned, many Myanmar nationals who have sought refuge in Thailand face a real risk of long-term imprisonment, torture, other ill-treatment, and possibly even the death penalty, especially those involved in peaceful demonstrations and other forms of resistance against the military.<sup>93</sup>

## RECOMMENDATIONS

Amnesty International recommends that Thailand:

- Immediately accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol;
- Ensure that, in practice, no one is subjected to forced return to places where they are at risk of torture and other ill-treatment in line with the Convention and Thailand's domestic law on the prevention and suppression of torture and enforced disappearance;
- Ensure that all persons in need of international protection who arrive in Thailand, regardless of their mode of arrival, have access to fair and efficient refugee status determination procedures.

## 4.2 INDEFINITE DETENTION

The Committee's Concluding Observations from the review of Thailand's initial report in 2014 raised concerns about the "use of lengthy and, in some cases, indefinite detention in immigration detention

---

<sup>87</sup> UN experts, Letter to the Vietnamese government on the alleged enforced disappearance of Thai activists in Viet Nam and Vietnamese activist in Thailand, UN Index: AL VNM 4/2020, 11 December 2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25649>, p. 3.

<sup>88</sup> UN experts, Letter to the Thai government on the crackdown against Indigenous Montagnard activists from Viet Nam, UN Index: AL THA 6/2024, 14 June 2024, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=29112>, p. 3.

<sup>89</sup> On file with Amnesty International.

<sup>90</sup> Amnesty International, Thailand: Montagnard Indigenous activist must not be extradited to face torture in Viet Nam, 10 July 2024, <https://www.amnesty.org/en/latest/news/2024/07/thailand-montagnard-indigenous-activist-must-not-be-extradited-to-face-torture-in-viet-nam/>

<sup>91</sup> Amnesty International, Thailand: Montagnard Indigenous activist must not be extradited to face torture in Viet Nam (previously cited).

<sup>92</sup> Amnesty International, Thailand: Montagnard Indigenous activist must not be extradited to face torture in Viet Nam (previously cited). See also UN experts, Letter to the Thai government on the crackdown against Indigenous Montagnard activists from Viet Nam (previously cited); Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Amicus Curiae Submission, 12 August 2024, <https://www.ohchr.org/sites/default/files/documents/issues/terrorism/sr/court-submissions/202408-Amicus-SRCT-Thailand-en.pdf>.

<sup>93</sup> Amnesty International, Thailand: Myanmar nationals must not be deported following interrogation, 24 March 2023, <https://www.amnesty.org/en/latest/news/2023/03/thailand-myanmar-nationals-must-not-be-deported-following-interrogation/>



centres for asylum seekers and migrants who enter the State party undocumented” in Thailand.<sup>94</sup> Such practice runs counter to Articles 3, 6 and 11 of the Convention.<sup>95</sup> The Committee further commented on the “extremely high levels of overcrowding and harsh conditions prevailing in detention facilities, including immigration detention centres” and added, “Such conditions include insufficient ventilation and lighting, poor sanitation and hygiene facilities and inadequate access to health care.”<sup>96</sup>

General Comment No. 4 of the Committee prescribes that [s]tate parties should not adopt dissuasive measures or policies, such as detention in poor conditions for indefinite periods, refusing to process claims for asylum or prolonging them unduly, or cutting funds for assistance programmes for asylum seekers, which would compel persons in need of protection under article 3 of the Convention to return to their country of origin in spite of their personal risk of being subjected to torture or other cruel, inhuman or degrading treatment or punishment there.”<sup>97</sup> However, Amnesty International found that Thai authorities continue to indefinitely detain some groups of refugees who fled violent persecution from their countries to Thailand, including the Rohingya<sup>98</sup> and the Uyghurs.<sup>99</sup>

At the time of submission in September 2024, 48 Uyghur individuals from China’s Xinjiang Uyghur Autonomous Region were detained in Thai immigration detention centres and prisons since they arrived in Thailand in 2014.<sup>100</sup> Forty-three of them are held at Bangkok’s Suan Phlu Immigration Detention Centre, whereas the remaining five are serving prison sentences due to their attempt to escape immigration detention.<sup>101</sup> In February 2024, a group of UN Special Procedure mandate holders raised concerns about the “inconsistent and insufficient” health care within immigration detention that led to serious health problems among Uyghur detainees.<sup>102</sup> Since 2014, five of the 48 Uyghur detainees, including a three-year old child and a new-born baby, died in immigration detention centres.<sup>103</sup> The UN experts pointed out that such conditions of detention “could amount to cruel, inhuman and degrading treatment or punishment in violation of article 5 of the [Universal Declaration of Human Rights], article 7 of the [International Covenant on Civil and Political Rights] and at least articles 1, 2 and 16 of the [Convention Against Torture].”<sup>104</sup>

## RECOMMENDATIONS

- Ensure that individuals are not criminalized, detained or otherwise punished solely for their method of arrival to Thailand;
- Immigration detention should only be used in the most exceptional circumstances, and there must be a presumption against such detention. Any decision to deprive a person of liberty must be clearly prescribed by law, legitimate, necessary, proportionate and non-discriminatory, following an individualized assessment of their specific needs and for the shortest amount of time necessary. Detention must not be prolonged or indefinite and the practice of indefinite detention should be ended immediately;
- Guarantee full access to adequate medical care for all persons held in immigration detention.

<sup>94</sup> CAT Committee, Concluding observations on the initial report of Thailand (previously cited), para 21.

<sup>95</sup> CAT Committee, Concluding observations on the initial report of Thailand (previously cited).

<sup>96</sup> CAT Committee, Concluding observations on the initial report of Thailand (previously cited), para 22.

<sup>97</sup> CAT Committee, General comment No. 4 (2017) on the implementation of article 3 of the Convention in the context of article 22, UN Index: CAT/C/GC/4, para 14.

<sup>98</sup> Human Rights Watch, Thailand: Allow Newly Arrived Rohingya Access to Asylum, 7 June 2022, <https://www.hrw.org/news/2022/06/07/thailand-allow-newly-arrived-rohingya-access-asylum>.

<sup>99</sup> Amnesty International, The State of the World’s Human Rights: April 2024, Index: POL 10/7200/2024, <https://www.amnesty.org/en/location/asia-and-the-pacific/south-east-asia-and-the-pacific/thailand/report-thailand/>, p. 369.

<sup>100</sup> UN experts, Letter to the Thai government on the detention conditions of Uyghurs in Thailand, UN Index: AL THA 2/2024, 22 February 2024, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=28775>.

<sup>101</sup> UN experts, Letter to the Thai government on the detention conditions of Uyghurs in Thailand (previously cited).

<sup>102</sup> UN experts, Letter to the Thai government on the detention conditions of Uyghurs in Thailand (previously cited).

<sup>103</sup> UN experts, Letter to the Thai government on the detention conditions of Uyghurs in Thailand (previously cited).

<sup>104</sup> UN experts, Letter to the Thai government on the detention conditions of Uyghurs in Thailand (previously cited).

## 5. DEATH PENALTY (ARTICLE 16)

Thailand continues to impose the death penalty, which Amnesty International considers to always be the ultimate cruel, inhuman and degrading punishment.<sup>105</sup> Regardless of the execution methods, the death penalty is cruel for those who are sentenced to it and are forced to wait on death row contemplating the prospect of execution.<sup>106</sup> It can also have severely traumatic impacts on the prisoners' families, prison guards, executioners, and other officials involved in handing the sentence.<sup>107</sup>

Amnesty International categorizes Thailand as a retentionist country where the death penalty remains in law for ordinary crimes.<sup>108</sup> The most recent execution took place on 18 June 2018 against a 26-year-old man for aggravated murder, after a long period of pause since the previous execution in August 2009.<sup>109</sup>

The use of the death penalty in Thailand violates restrictions to its use set out under international law and standards. Under the Thai criminal justice system, death penalty applies for various crimes, including drug-related offences, as well as other non-lethal offences, such as corruption and bribery, which do not meet the threshold of the "most serious crimes" to which the use of the death penalty must be restricted, in countries where it has not yet been abolished, under Article 6 (2) of the International Convention on Civil and Political Rights.<sup>110</sup> At the end of 2023, official information showed that there were 325 people under death sentences, including 199 individuals (173 men and 26 women) on death row due to drug-related convictions.<sup>111</sup>

Further, the Military Penal Code, which applies to military personnel and any other persons tried under a military court, imposes death penalty on fifteen crimes.<sup>112</sup> Section 6 of the Military Penal Code prescribes the method of execution is shooting for convicted military imposed of death sentence.<sup>113</sup> On 24 January 2024, Amnesty International found that one death-row former military is remanded in the 11th Military Circle for premeditated murder, while the case was not concluded under the Military Court.<sup>114</sup>

### RECOMMENDATIONS

- Abolish death penalty for all crimes, including those listed under the Military Penal Code;
- Accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty

<sup>105</sup> Amnesty International, Written statement to the 34<sup>th</sup> session of the UN Human Rights Council (27 February – 24 March 2017), Index: IOR 40/5734/2017, 17 February 2017, <https://www.amnesty.org/en/wp-content/uploads/2021/05/IO4057342017ENGLISH.pdf>, p. 1.

<sup>106</sup> Amnesty International, Thailand: Time to abolish the death penalty, Index: ACT 50/7611/2017, December 2017, <https://www.amnesty.org/fr/wp-content/uploads/2023/06/ACT5076112017ENGLISH.pdf>, p. 2.

<sup>107</sup> Amnesty International, Thailand: Time to abolish the death penalty (previously cited).

<sup>108</sup> Amnesty International, Abolitionist and retentionist countries as of December 2022, AI Index: ACT 50/6591/2023, 15 May 2023, <https://www.amnesty.org/en/documents/act50/6591/2023/en/>

<sup>109</sup> Amnesty International, Thailand: Country's first execution since 2009 a deplorable move, 19 June 2018, <https://www.amnesty.org/en/latest/news/2018/06/thailand-country-first-execution-since-2009-a-deplorable-move/>.

<sup>110</sup> Amnesty International, Thailand: Time to abolish the death penalty (previously cited).

<sup>111</sup> Amnesty International, Death sentences and executions in 2023, Index: ACT 50/7952/2024, 29 May 2024, <https://www.amnesty.org/en/documents/act50/7952/2024/en/#:~:text=Amnesty%20International's%20monitoring%20of%20the,31%25%20from%20883%20in%202022,p.25>.

<sup>112</sup> Thailand, Military Penal Code, 1911, Articles 13-19, 27, 29, 30, 31, 36, 38, 42-43,

<sup>113</sup> Thailand, Military Penal Code (previously cited), Article 6.

<sup>114</sup> Amnesty International Thailand received information from The Judge Advocate General's Department under the Ministry of Defense on 24 January 2024.

## 6. GENDER-BASED VIOLENCE (ARTICLE 2, 14, AND 16)

The Committee in the last Concluding Observations noted with concerns the “high prevalence of gender-based violence, in particular sexual and domestic violence in Thailand”, as well as the “low level of prosecution for sexual and domestic violence, mainly due to obstacles inherent in the legal framework and the unresponsive attitude of the police and the judiciary towards such violence”.<sup>115</sup>

### 6.1 PHYSICAL VIOLENCE AGAINST WOMEN AND LGBTI PEOPLE

During the period under review, Amnesty International found that violence against women and LGBTI people remain widespread in Thailand. From 2013 to 2022, the Ministry of Social Development and Human Security’s Department of Women’s Affairs and Family Development recorded 14,495 incidents of domestic violence, with 13,535 survivors (11,162 women, 2,099 men, and 274 others who did not identify their gender).<sup>116</sup>

According to Thailand Health Promotion Foundation, approximately 30,000 women per year had to seek medical care or reported to authorities due to sexual and gender-based violence.<sup>117</sup> It is, however, expected that many sexual and gender-based violence cases remain unreported.<sup>118</sup>

Statistical data about violence against LGBTI people remain publicly unavailable and inaccessible from official sources. However, the United Nations Development Program’s 2019 survey report shows that a significant proportion of LGBTI people in Thailand are faced with various attacks, including verbal attacks, sexual harassment and physical violence.<sup>119</sup>

Amnesty International documented that LGBTI people in Thailand’s Malay Muslim-majority southern border provinces particularly faced severe discrimination and violence due to their sexual orientation. Local activists working with LGBTI youths informed Amnesty International that young gender-diverse children in Malay Muslim communities continue to be sent to private all-boys religious schools as a form of “conversion therapy”.<sup>120</sup> At such schools, many gender-diverse students, including gay, queer, and transgender children, faced extreme corporal punishments, such as public hair shaving and beatings, aimed at discouraging them from expressing their sexual orientation and gender-diverse identities.<sup>121</sup> In most cases, LGBTI people subjected to gender-based violence in this region refrain from reporting to authorities due to fear of reprisals from their community members.<sup>122</sup>

LGBTI activists advocating for the decriminalization of sex work in Chiang Mai in northern Thailand further informed Amnesty International that sex workers, especially those who are undocumented migrant workers and stateless people, very rarely report to authorities when experiencing gender-based violence due to fears of facing arrest and/or deportation under immigration and/or citizenship laws.<sup>123</sup>

<sup>115</sup> CAT Committee, Concluding observations on the initial report of Thailand (previously cited), para 16.

<sup>116</sup> Ministry of Social Development and Human Security, รายงานสถานการณ์ด้านความรุนแรงในครอบครัว มาตรา 17 ปี 2565, February 2024, <https://www.dwf.go.th/storage/77313/2dc3ce63-ad87-446f-b8c5-015f145c7905-document-6066.pdf>. It is important to note that various government agencies separately collected data involving incidents of gender-based violence in Thailand. There is currently no central authority responsible for collecting and publishing reliable, inclusive and thorough disaggregated data on this issue.

<sup>117</sup> Thai Health Promotion Foundation, หญิงไทยถูกละเมิดทางเพศ-กระทำคามรุนแรง มากกว่า 7 คน/วัน รังส่งเสริมความเสมอภาค ขจัดความรุนแรงทุกรูปแบบ, 8 March 2022, <https://www.thaihealth.or.th/%E0%B8%AB%E0%B8%8D%E0%B8%B4%E0%B8%87%E0%B9%84%E0%B8%97%E0%B8%A2%E0%B8%96%E0%B8%B9%E0%B8%81%E0%B8%A5%E0%B8%B0%E0%B9%80%E0%B8%A1%E0%B8%B4%E0%B8%94%E0%B8%97%E0%B8%B2%E0%B8%87%E0%B9%80%E0%B8%9E%E0%B8%A8/>

<sup>118</sup> Heinrich Boll Stiftung Southeast Asia, Spinning in the Void: The Data Black Hole of Sexual and Gender-Based Violence in Thailand, 20 October 2022, <https://th.boell.org/en/2022/10/20/sexual-and-gender-violence-thailand#:~:text=The%20sexual%20and%20gender%2Dbased,and%20used%20as%20a%20reference.>

<sup>119</sup> United Nations Development Program, Tolerance but Not Inclusion, 1 December 2019, <https://www.undp.org/thailand/publications/tolerance-not-inclusion#:~:text=December%201%2C%202019&text=The%20study%20found%20that%20there,and%20discrimination%2C%20violence%20and%20exclusion,> p. 22.

<sup>120</sup> Interview in person with three LGBTI activists from Thailand’s southern border provinces, 18 July 2024, Pattani.

<sup>121</sup> Interview in person with three LGBTI activists from Thailand’s southern border provinces (previously cited).

<sup>122</sup> Interview in person with three LGBTI activists from Thailand’s southern border provinces (previously cited).

<sup>123</sup> Interview in person with four transgender women activists working on the decriminalization of sex work, 8 August 2024, Chiang Mai.

## 6.2 TECHNOLOGY-FACILITATED GENDER-BASED VIOLENCE

During the period under review, Amnesty International’s research documented 40 emblematic cases of technology-facilitated gender-based violence (TfGBV), including targeted digital surveillance and online harassment, against women and LGBTI human rights defenders between 2020 and 2024.<sup>124</sup> Many cases of TfGBV documented in our research may constitute torture or other ill-treatment prohibited under the Convention.

This interpretation is in line with that of the former UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment who stated in the report presented to the UN Human Rights Council during the 43<sup>rd</sup> session, “Individuals or groups systematically targeted by cybersurveillance and cyberharassment are generally left without any effective means of defence, escape or self-protection and, at least in this respect, often find themselves in a situation of “powerlessness” comparable to physical custody.”<sup>125</sup> The report also stated, “[...] [M]uch more systematic, government-sponsored threats and harassment delivered through cyber-technologies not only entail a situation of effective powerlessness but may well inflict levels of anxiety, stress, shame and guilt amounting to ‘severe mental suffering’, as required for a finding of torture”.<sup>126</sup>

Between 2020 and 2022, dozens of women and LGBTI human rights defenders in Thailand experienced targeted digital surveillance. Several LGBTI activists received alerts notifying them about a “government-backed or sophisticated attacker” attempting to compromise their individual Facebook account in November 2022.<sup>127</sup> Meanwhile, at least 15 women involved in peaceful protests against the then-government were attacked with Pegasus spyware, a form of highly invasive spyware developed by the Israel-based company NSO Group.

Among the 15 women was Pornpen Khongkachonkiet, a woman human rights defender who heads Cross-Cultural Foundation, a Bangkok-based human rights organization that works on torture and enforced disappearance.<sup>128</sup> According to Pornpen, her phone was infected with spyware around the same time when she and her team were also providing legal aid and advocacy support to a protester who was allegedly tortured on 29 October 2021 while he was held in police custody (see details of this case in Section 3.2 of this submission).<sup>129</sup>

Technical and circumstantial evidence led Amnesty International to conclude that there is a strong likelihood that one or more Thai state actors, or agents acting on their behalf, were involved in the use of the spyware, especially because the NSO Group exclusively sells its product to government agencies.<sup>130</sup>

Amnesty International assessed that such targeted digital surveillance constitutes gender-based violence against the targeted women and LGBTI human rights defenders because it led to distinct gendered fears linked to gender-based discrimination and violence in Thai society. Many women human rights defenders reported crippling fear that their private data could be used for blackmailing to discourage them from carrying out further activism, while a gay human rights defender expressed concerns that authorities could use the data obtained through digital surveillance to prosecute him for

---

<sup>124</sup> Amnesty International, Thailand: “Being ourselves is too dangerous”: Digital violence and the silencing of women and LGBTI activists in Thailand, Index: ASA39/7955/2024, 16 May 2024, <https://www.amnesty.org/en/documents/asa39/7955/2024/en/>.

<sup>125</sup> UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Report on psychological torture and ill-treatment, UN Index: A/HRC/43/49, 20 March 2020, para 75.

<sup>126</sup> UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Report on psychological torture and ill-treatment (previously cited).

<sup>127</sup> Amnesty International, Thailand: “Being ourselves is too dangerous”: Digital violence and the silencing of women and LGBTI activists in Thailand (previously cited), p. 49.

<sup>128</sup> Amnesty International, Thailand: “Being ourselves is too dangerous”: Digital violence and the silencing of women and LGBTI activists in Thailand (previously cited), p. 48.

<sup>129</sup> Amnesty International, Thailand: “Being ourselves is too dangerous”: Digital violence and the silencing of women and LGBTI activists in Thailand (previously cited).

<sup>130</sup> See the full details of Amnesty International’s technical and circumstantial evidence at Amnesty International, Thailand: “Being ourselves is too dangerous”: Digital violence and the silencing of women and LGBTI activists in Thailand (previously cited), p. 48-49.

his activism and send him to prison where he will highly likely face homophobic discrimination and sexual violence.<sup>131</sup>

Prominent human rights defenders, including women human rights defenders working on torture and other ill-treatment, were subjected to coordinated smear campaigns that sought to delegitimize their activism through spreading gendered disinformation and negative narratives about their personal and professional lives.<sup>132</sup> Technical evidence, as well as testimonies from human rights defenders, suggested that Thai state actors, including but not limited to the Internal Security Operations Command (ISOC) and the Royal Thai Army (RTA), were involved in the smear campaigns.<sup>133</sup>

Amnesty International documented that the women and LGBTI human rights defenders targeted with TfGBV suffered from severe mental impacts, including depression and post-traumatic stress disorder. Those living in Thailand's southern border region, where physical gender-based violence is prevalent, informed Amnesty International that they experienced extreme anxiety when publicly expressing themselves or undertaking activism in the digital space.<sup>134</sup>

Not only has Thai authorities denied involvement and responsibility in all cases of gender-based violence committed in the forms of targeted digital surveillance and online harassment, but Amnesty International also found that authorities failed to exercise due diligence to prevent, investigate, prosecute and punish those who engaged in these incidents in line with the Committee's General Comment No. 2.<sup>135</sup>

The Committee's observation, as mentioned above, regarding the "unresponsive attitude of the police and the judiciary towards such violence" continues to be relevant even ten years after the first review of Thailand in 2014. Such attitude poses a major limitation for those subjected to TfGBV to access justice. Women and LGBTI activists told Amnesty International that they experienced police officers not taking their complaints about TfGBV seriously and/or lacking understanding about the issue, which led to failures to register complaints, as well as distrust in law enforcement authorities among TfGBV survivors.<sup>136</sup>

The judicial system failed to deliver justice and redress for women human rights defenders subjected to targeted smear campaigns aimed at delegitimizing their human rights work. For instance, in November 2020, two prominent woman HRDs targeted with smear campaigns online – filed a lawsuit against the Office of the Prime Minister, which oversees the ISOC, and the RTA to the Bangkok Civil Court.<sup>137</sup> Both women HRDs alleged that these entities engaged in the online smear campaign. On 16 February 2023 the Bangkok Civil Court dismissed the case on the grounds that the plaintiffs did not have sufficient evidence to prove that the smear campaigns were run by the Thai state agencies on trial.<sup>138</sup>

Due to various compounding factors including the government's public denial of involvement in the spyware attacks and smear campaigns, the covert nature of the global spyware industry and the anonymity that often linked to TfGBV, survivors struggle to obtain information about their perpetrators.<sup>139</sup> Under Thai law, the burden of proof lies with the claimant in both criminal and civil lawsuits.<sup>140</sup>

---

<sup>131</sup> Amnesty International, Thailand: "Being ourselves is too dangerous": Digital violence and the silencing of women and LGBTI activists in Thailand (previously cited), p. 52-53.

<sup>132</sup> Amnesty International, Thailand: "Being ourselves is too dangerous": Digital violence and the silencing of women and LGBTI activists in Thailand (previously cited), p. 59-65.

<sup>133</sup> Amnesty International, Thailand: "Being ourselves is too dangerous": Digital violence and the silencing of women and LGBTI activists in Thailand (previously cited), p. 24-25.

<sup>134</sup> Interview in person with three LGBTI activists from Thailand's southern border provinces (previously cited).

<sup>135</sup> CAT/C/GC/2 para 18.

<sup>136</sup> Amnesty International, Thailand: "Being ourselves is too dangerous": Digital violence and the silencing of women and LGBTI activists in Thailand (previously cited), p 72-73.

<sup>137</sup> In this case, the women human rights defenders demanded a total of 5 million Thai baht (approximately US\$137,700) as monetary compensation under the 1996 Act Relating to Liabilities of Government Officials on Wrongful Acts and asked that the government remove all the content attacking them from the website and issue them a public apology.

<sup>138</sup> Amnesty International, Thailand: "Being ourselves is too dangerous": Digital violence and the silencing of women and LGBTI activists in Thailand (previously cited), p 74.

<sup>139</sup> Amnesty International, Thailand: "Being ourselves is too dangerous": Digital violence and the silencing of women and LGBTI activists in Thailand (previously cited).

<sup>140</sup> Amnesty International, Thailand: "Being ourselves is too dangerous": Digital violence and the silencing of women and LGBTI activists in Thailand (previously cited).

Amnesty International found that this procedural requirement poses challenges for the survivors to access justice and redress through judicial mechanisms.<sup>141</sup>

Further, Thailand's Committee on the Determination of the Unfair Gender Discrimination, set up under the Gender Equality Act to investigate complaints of gender-based discrimination, contains a significant gap. Article 17(2) of the Gender Equality Act allows for exemptions which permit gender-based discrimination and violence in cases where such acts are carried out "for eliminating obstacles or promoting individuals to enjoy the same rights and freedoms as others, for protecting the welfare and safety of a person, for following religious practices, or for security of the nation".<sup>142</sup> With such limitations, none of the perpetrators in the cases documented by Amnesty International, including cases where state actors were suspected to be involved, has been held accountable.

## RECOMMENDATIONS

Amnesty International recommends that Thailand:

- Enact and implement comprehensive legislation to recognize, prevent, document, investigate and prosecute online gender-based violence and provide redress and support for survivors;
- Carry out a prompt, independent, impartial and transparent investigation into all documented and reported instances of TfGBV against women and LGBTI HRDs, including but not limited to the use of unlawful targeted digital surveillance and online harassment ;
- Amend the 2015 Gender Equality Act by removing exemptions that gender-based discrimination on grounds of religious principles and national security are permissible under Section 17(2) of the law, in line with the recommendation from the CEDAW Committee;
- Proactively remove structural and systemic barriers to gender equality, including by undertaking legislative measures, social policies and educational programmes to eliminate gender and other intersectional harmful stereotypes, negative social norms and discriminatory attitudes against women, girls and LGBTI people, with specific attention to the situation of LGBTI people in the southern border provinces;
- Ensure meaningful consultation with civil society organisations, HRDs and activists working on women's rights, gender and sexuality, SOGIESC issues and feminist approaches to technology, especially those from marginalized communities, in the process of any policy development, and its implementation and monitoring.
- Publicly commit to refraining from the use of TfGBV, and to protecting HRDs and other members of civil society from such violence;
- Establish and enforce codes of conduct on public communications for officials to ensure state actors do not engage in online harassment, including the use of gendered disinformation, against women and LGBTI HRDs.

---

<sup>141</sup> Amnesty International, Thailand: "Being ourselves is too dangerous": Digital violence and the silencing of women and LGBTI activists in Thailand (previously cited).

<sup>142</sup> Thailand: "Being ourselves is too dangerous": Digital violence and the silencing of women and LGBTI activists in Thailand (previously cited), p. 35. See also Thailand, Gender Equality Act, 2015, Article 17(2).

## 7. HUMAN RIGHTS DEFENDERS WORKING ON TORTURE AND OTHER ILL-TREATMENT (ARTICLES 2 AND 16)

The Committee noted its concern in the last Concluding Observation regarding “the numerous and consistent allegations of serious acts of reprisals and threats against human rights defenders, journalists, community leaders and their relatives, including verbal and physical attacks, enforced disappearances and extrajudicial killings, as well as by the lack of information provided on any investigations into such allegations.”<sup>143</sup>

On 25 June 2024, Malay Muslim human rights defender Roning Dolah was shot and killed by two unidentified men in front of his young son at his home in the Yarang district of Pattani province in southern Thailand.<sup>144</sup> Roning was a torture survivor and coordinator working with local civil society organization Duay Jai Group under the UN Voluntary Fund for Victims of Torture to provide rehabilitation support for torture survivors.<sup>145</sup> He was vocal about torture and other ill-treatment against Malay Muslim detainees in Thailand’s southern border provinces.<sup>146</sup>

While Amnesty International is not able to verify whether state actors were involved in the killing of Roning, the Thai government’s failure in terms of ensuring an independent, effective and prompt investigation into his death is concerning. Local civil society organizations informed Amnesty International that the incident, as well as the lack of an independent, impartial, transparent and thorough investigation, resulted in widespread fear among human rights defenders working with torture survivors in the country’s southern border provinces.<sup>147</sup>

### RECOMMENDATIONS

Amnesty International recommends that Thailand:

- Carry out a prompt, transparent, independent and effective investigation into Roning’s death and bring the perpetrators to justice in a manner consistent with international human rights law;
- Promote the necessary measures to prevent violence and protect the life and physical integrity of human rights defenders;

---

<sup>143</sup> CAT Committee, Concluding observations on the initial report of Thailand (previously cited), para 18.

<sup>144</sup> Amnesty International, Thailand: Killing of Malay Muslim human rights defender must be investigated, 26 July 2024, <https://www.amnesty.org/en/latest/news/2024/06/thailand-killing-of-malay-muslim-human-rights-defender-must-be-investigated/>

<sup>145</sup> Amnesty International, Thailand: Killing of Malay Muslim human rights defender must be investigated (previously cited).

<sup>146</sup> Interview with representatives of Duay Jai Group (previously cited).

<sup>147</sup> Interview with representatives of Duay Jai Group (previously cited); and interview with representatives of JASAD (previously cited).

# ANNEX I: SECTION 226 OF THE CRIMINAL PROCEDURE CODE

Section 226/1 of the Thai Criminal Procedure Code:

“In case where the Court finds that any evidence arisen duly but derived by an act of bad faith or derived by means of the data arisen or derived wrongfully, such evidence shall not be admitted by the Court, unless the admission of such evidence has benefits in terms of delivering justice which outweigh the negative impacts on the standard of criminal justice work system or basic right and liberty of people.

In consideration of admitting evidence according to the first paragraph, the Court shall consider all the following factors:

- (1.) Probative value, importance, and convincing qualities of evidence
- (2.) Circumstances and gravity of offence in case
- (3.) Nature and injury arisen from acting in bad faith
- (4.) Whether and how a person who did a wrongful act to obtain the evidence was published or not”

Section 226/2 of the Thai Criminal Procedure Code:

“The Court shall not admit any evidence used against the defendant in other cases or other negative behaviors to prove that the defendant has committed an offence in the instituted case, with the following exceptions:

- (1.) The evidence directly concerned with elements of offences in the instituted case
- (2.) The evidence showing the specific manner, method, and form of committing the offence by the defendant
- (3.) Evidence debunking the defendant’s claims about their action or good behavior

It is not prohibited to admit these categories of evidence listed in the first paragraph in court for determining or increasing the penalty.”





**Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.**

## Contact

  
info@amnesty.org

  
facebook.com/  
AmnestyGlobal

  
@Amnesty

  
amnesty.org



Amnesty International  
Peter Benenson House  
1 Easton Street  
London WC1X 0DW, UK

Except where otherwise noted, content in this document is licensed under a Creative Commons (attribution, non-commercial, no derivatives, international 4.0) licence (see [creativecommons.org/licenses/by-nc-nd/4.0/legalcode](https://creativecommons.org/licenses/by-nc-nd/4.0/legalcode)).

Where material is attributed to a copyright owner other than Amnesty International, this material is not covered by the Creative Commons licence.

For more information, visit the [permissions page](#) on Amnesty International's website.