



UNITED NATIONS COMMITTEE AGAINST TORTURE
81st Session of the UN Committee Against Torture

28 October to 22 November 2024

**SUBMISSION OF THE INTERNATIONAL COMMISSION OF JURISTS TO THE UN
COMMITTEE AGAINST TORTURE IN VIEW OF THE COMMITTEE'S EXAMINATION OF
THAILAND'S SECOND PERIODIC REPORT UNDER ARTICLE 19 OF THE CONVENTION
AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR
PUNISHMENT**

Submitted on 30 September 2024

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I. Introduction

1. During its 81st session, from 28 October to 22 November 2024, the UN Committee Against Torture (the Committee) will examine Thailand’s compliance with its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture), including in light of the State Party’s second periodic report under Article 19 of the Convention against Torture. In this context, the International Commission of Jurists (ICJ) welcomes the opportunity to submit the present briefing to the Committee.
2. While the ICJ commends several significant steps taken by Thailand in the past decade—including the adoption of the Prevention and Suppression of Torture and Enforced Disappearance Act, more than 15 years after becoming a State Party to the Convention against Torture, the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), and the withdrawal of the Interpretative Declaration to the Convention against Torture with respect to Articles 1, 4, and 5—in this submission, the ICJ sets out its concerns about Thailand’s implementation of Articles 1, 2, 3, 4, 10, 11, 12, 13, 14, 15 and 16 of the Convention against Torture. Listed below is information gathered through the ICJ’s research, monitoring, analysis and interviews with various stakeholders and presented following the sequence of the Committee’s List of Issues prior to the submission of Thailand’s second periodic report (‘List of Issues’),¹ corresponding to paragraphs 2, 3, 4, 6, 7, 11, 23, 24, 25, 26, 27, 28 and 29 of that document.
3. The ICJ’s concerns relate to:
 - A. The inadequate criminalization of torture, cruel, inhuman or degrading treatment or punishment (CIDT/P), and enforced disappearance through the adoption of the Prevention and Suppression of Torture and Enforced Disappearance Act;
 - B. Domestic legislation that could result in immunity and *de facto* impunity for acts of torture and CIDT/P;
 - C. Detention under special laws in military facilities and other places not recognized as regular detention centers, without adequate judicial oversight, including administrative detention under the orders from the National Council for Peace and Order (NCPO), Martial Law Act and the Emergency Decree on Public Administration in Emergency Situations;
 - D. Reservation made during the ratification of the ICPPED, allegations of enforced disappearance, and lack of/inadequate progress in uncovering the fate and whereabouts of those who allegedly disappeared;

¹ Committee against Torture, ‘List of issues prior to submission of the second periodic report of Thailand’, CAT/C/THA/QPR/2, 19 June 2018, para 2. (‘List of Issues’)

- E. The failure to ensure the implementation and absolute nature of *non-refoulement* principle within the domestic legal framework;
- F. Custodial deaths in disputed circumstances where credible allegations point to torture or other ill-treatment in custody and the lack of/inadequate progress of investigations into these allegations;
- G. Allegations of torture and CIDT/P, and the lack of/inadequate progress of investigations into these allegations;
- H. The flawed establishment of independent and impartial bodies to investigate allegations of torture, CIDT/P and enforced disappearance as required under international human rights law, including the Convention against Torture;
- I. Protection of victims, witnesses of torture, CIDT/P, and families of victims of torture and enforced disappearances;
- J. Redress and compensation measures available to victims of torture, CIDT/P, and enforced disappearance;
- K. The admissibility of “confessions” and information obtained from detainees held under Martial Law and the Emergency Decree, as well as statements and other information allegedly obtained through torture and CIDT/P; and
- L. Threats and reprisals against individuals working to expose allegations of torture, CIDT/P and enforced disappearances.

A. Prevention and Suppression of Torture and Enforced Disappearance Act (Articles 1, 4 and 16 of the Convention against Torture, Reply to paragraph 2 of the List of Issues)

- 4. With regard to Articles 1 and 4 of the Convention, Thailand took the welcome step of enacting the Prevention and Suppression of Torture and Enforced Disappearance Act.² The Act, which entered into force on 22 February 2023, criminalizes torture, CIDT/P and enforced disappearance. The Act addresses some concerns raised by the Committee, civil society organizations and victims' families, including with respect to the absolute and non-derogable nature of the torture prohibition and the *non-refoulement* principle. However, the following concerns are still outstanding:
 - a. Section 5 of the Act: the definition of "torture"³ still implies that the four purposes identified are exhaustive, while the plain language of the Convention against Torture and the Committee's recommendations in the Concluding

² The unofficial English translation of the Act could be assessed via: https://drive.google.com/file/d/1oS2FCkZGht8GmXy4wFcx5wGUoy0P_quw/view

³ Torture was defined as “A person who is a public official and has intentionally inflicted severe pain or suffering, physical or mental, for one of the following purposes:

- (1) To obtain information or a confession from affected person or a third person;
- (2) To punish the affected person for the act that such person or the third party has committed or is suspected of having committed;
- (3) To threaten or coerce affected person or a third person; or
- (4) To discriminate based on any grounds.”

Observations on Thailand's Initial Report⁴ ('Concluding Observations') clarify that the four purposes are illustrative, not exhaustive;

- b. Section 34 of the Act: the scope of command or superior responsibility for acts of torture, CIDT/P and enforced disappearance committed by subordinates is limited to those who knew, but does not extend to those who "should have known" that such conduct was occurring or was likely to occur, as recommended by the Committee in General Comment No. 2;⁵ and
 - c. The Act does not explicitly address the application of a statute of limitations, meaning that Section 95 of the Criminal Code applies, setting the time limit between one and 20 years, depending on the gravity of the criminal offence concerned.⁶ However, the Committee, in General Comment No. 3⁷ and numerous Concluding Observations, including on Thailand, has emphasized that there should be no statute of limitations for torture crimes.
5. In addition to the above concerns, the ICJ sets out below additional shortcomings in the current Act.⁸
- a. Article 14: The composition of the Committee on the Prevention and Suppression of Torture and Enforced Disappearance, tasked, among other things, with proposing measures to prevent and suppress torture, CIDT/P and enforced disappearance to relevant authorities, now includes only governmental authorities and independent experts. The previously included "injured persons and their representatives" were removed;
 - b. The previously included provision on the inadmissibility of statements and other information obtained through torture, CIDT/P, or enforced disappearance, as evidence in legal proceedings was also removed (discussed further in part K below); and
 - c. The clause exempting the application of amnesty laws for public officials committing offences under this Act was removed, notwithstanding the fact that amnesties of this kind are non-compliant with international law.⁹

⁴ Committee against Torture, 'Concluding observations on the initial report of Thailand', CAT/C/THA/CO/1, 20 June 2014, para 9. ('Concluding Observations')

⁵ Committee Against Torture, 'General Comment No.2, Implementation of Article 2 by States Parties,' CAT/C/GC/2, 24 January 2008 para. 26. ('General Comment No.2')

⁶ In case of enforced disappearance, section 30 of the Act provides that the statute of limitation shall not start until the fate of a disappeared person can be established.

⁷ Committee Against Torture, 'General Comment No. 3, Implementation of article 14 by States parties,' CAT/C/GC/3, 13 December 2012, para. 40. ('General Comment No.3')

⁸ For more information: ICJ and Amnesty International, 'Analysis of the existing shortcomings of the Draft Prevention and Suppression of Torture and Enforced Disappearance Act, as approved by the House of Representatives on 24 August 2022', available at: https://icj2.wpenginepowered.com/wp-content/uploads/2022/08/Final_analysis_shortcomings_24_Aug.Latest.pdf

⁹ See, e.g., General Comment No.3, para 41, and Principle 24 of the UN Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity.

6. The ICJ is also concerned about challenges in the Act's implementation. While the organization commends the adoption of several measures, such as the continuous recording of audio and video throughout the arrest and detention process¹⁰ and the immediate notification of the arrest to the public prosecutor and district chief, as required under Section 22 of the Act, there have been reports of non-compliance by certain authorities. In particular, differing interpretations of what constitutes "detention" have led to confusion over when the measures under Section 22 should be applied. In this regard, Section 3 defines "detention" as including "an arrest, deprivation of liberty, confinement, isolation, incarceration, or any other similar acts restricting a person's bodily liberty."
7. Civil society organizations have reported instances where individuals were "invited" to meet or "asked for cooperation" to remain with authorities in circumstances where their liberty was ultimately restricted, yet the authorities did not comply with Section 22. For example, on 21 February 2024, in an attempt to stop Sitanan Satsaksit, the sister of Wanchalearm Satsaksit—a Thai activist in exile who was reportedly abducted from his apartment building in Cambodia in June 2020 and has been missing since—from reaching the residence of Thaksin Shinawatra on the day former Cambodian Prime Minister Hun Sen visited, Sitanan was stopped and surrounded by more than 10 uniformed and plainclothes police officers. They informed her that "no charges were being pressed against her, but she could not go anywhere else", and she was held for nearly two hours, until her lawyer arrived and insisted she could leave, as there were no charges against her.¹¹ In this case, the restriction of Sitanan's liberty should fall under the definition of "detention" under the Act. However, her lawyer confirmed that there was no video or audio recording of the incident, nor did the police notify the public prosecutor, as required. The absence of notification was later confirmed by the public prosecutor.¹²

B. Immunity (Article 2 of the Convention against Torture, Reply to paragraphs 3-4 of the List of Issues)

Domestic legislation that could result in immunity for acts of torture, CIDT/P and enforced disappearance

8. In response to the Committee's questions in its List of Issues regarding efforts to repeal domestic legislation that could result in immunity for acts of torture or ill-treatment, the ICJ draws the Committee's attention to the fact that most of the laws listed by the Committee are still in place, despite some *de facto* no longer being enforced.

¹⁰ There is also the Order of the Royal Thai Police No. 178/2564 that requires inquiry officials to continuously record audio and video throughout the interview of certain serious offences.

¹¹ Thai Lawyers for Human Rights (TLHR), 'Wanchalearm's Sister Stopped by Police and Detained in a Restricted Area Before Reaching Chan Song La Residence', 22 June 2024, available at: <https://tlhr2014.com/archives/65014> (in Thai).

¹² Letter informing the Examination Result dated 13 March 2024, from the Prevention and Suppression of Torture and Enforced Disappearance, Office of the Attorney General, in response to the Cross-Cultural Foundation's letter dated 23 February 2024.

Constitution

9. With regard to Articles 265 and 279 of the Constitution of the Kingdom of Thailand B.E. 2560 (2017) ('Constitution'),¹³ as inquired by the Committee in the List of Issues, while the National Council for Peace and Order (NCPO) was dissolved after the Council of Ministers took office following the general election in March 2019, rendering Article 265 ineffective, Article 279 of the Constitution continues to recognize the lawfulness of NCPO orders (described below). Article 279 further reaffirms that all orders, announcements, and acts of the NCPO and its Head must be considered "constitutional and lawful," granting them immunity from judicial review.

NCPO Orders

10. Article 279 of the Constitution further states that NCPO orders shall remain in force unless repealed or amended by the passage of an Act, or through an order of the Prime Minister or a resolution of the Council of Ministers, if such orders fall under the exercise of executive power. This means that, in the absence of a new Act repealing or amending them,¹⁴ the NCPO orders undermining the enjoyment of human rights, such as those containing provisions that could result in immunity for acts of torture and CIDT/P, remain in force.¹⁵ These include Head of NCPO Orders Nos. 3/2558¹⁶ and 13/2559,¹⁷ which grant designated "Peace and Order Maintenance Officers" and "Prevention and Suppression Officers" broad investigatory, arrest and detention powers for up to seven days without judicial oversight. Officers acting under these orders, who have acted in "good faith" in a "proportionate and necessary manner" without "discrimination", are not subject to criminal, civil, or administrative liabilities.¹⁸ Nevertheless, it remains unclear whether the powers under these two orders have been exercised in recent years, as no "Peace Keeping Officers" or "Prevention and Suppression Officers," who were supposed to be appointed by the

¹³ A translation into English is available at:

https://cdc.parliament.go.th/draftconstitution2/download/article/article_20180829093502.pdf

¹⁴ Parliamentarians and the Council of Ministers have made efforts to revoke these orders. On 21 August 2024, members of the House of Representatives voted to approve the rationale behind five draft bills aimed at repealing NCPO announcements and orders during their first readings. These five bills are now under review by the Ad Hoc Parliamentary Committee altogether, which will present them back to the House for second and third readings. At least two draft bills, proposed by different political parties, call for the repeal of Head of NCPO Orders Nos. 3/2558 and 13/2559. See: iLaw, 'No opposition! The House accepts the draft law to repeal NCPO announcements and orders that violate human rights and are no longer necessary', 21 August 2024, available at: <https://www.ilaw.or.th/articles/41643> (in Thai).

¹⁵ See also: ICJ, 'Thailand: 10 years after the military coup, Rule of Law remains to be fully restored', 22 May 2024, available at: <https://www.icj.org/thailand-10-years-after-the-military-coup-rule-of-law-remains-to-be-fully-restored/>

¹⁶ An unofficial translation into English is available at: <https://crcfthailand.org/wp-content/uploads/2015/04/order-number-3-2558-3-2015-of-the-head-of-the-ncpo-on-maintaining-public-order-and-national-security.pdf>

¹⁷ Available at: https://library.parliament.go.th/sites/default/files/assets/files/give-take/content_ncpo/NALT-ncpo-head-order13-2559.pdf (in Thai)

¹⁸ Article 4 of HNCPO Order No. 3/2558, Articles 8 and 9 of HNCPO Order No. 13/2559 and Article 17 of the Decree on Public Administration in Emergency Situations 2005.

NCPO or their designated individuals, have been appointed in the past several years to exercise such powers after the dissolution of the NCPO in July 2019.

Martial Law Act and Emergency Decree

11. The ICJ regrets that, in the past decade, no review or efforts by any stakeholders, including parliamentarians,¹⁹ have resulted in the amendment of the Martial Law B.E. 2457 (1914)²⁰ or the Emergency Decree on Public Administration in Emergency Situations B.E. 2548 (2005).²¹ As a result, Section 17 of the Emergency Decree, which the Committee inquired about in its List of Issues, and which limits the accountability of officials enforcing their powers under the Decree—provided they have acted “in good faith,” in a “proportionate manner,” and without “discrimination”—remains in place.

De facto impunity

12. In response to the Committee’s question in the List of Issues regarding progress in addressing *de facto* impunity for acts of torture, the ICJ is concerned that very little progress has been made. Between the previous review session in 2014 and the date of this submission, the organization is aware of only two cases in which State officials have been convicted by Thai courts for committing acts of torture. These are the cases of Rittirong Cheunchit and Wichian Pueksom. Both cases involved long, arduous legal battles, with one case raising concern about the leniency of the punishment imposed, as the perpetrator was given a suspended sentence due to his “police profession.”
13. The first case concerns Rittirong Cheunchit, who was detained by police in 2009 when he was an 18-year-old student. He was wrongfully accused of snatching a gold necklace after being misidentified by a woman. Despite asserting his innocence, the police tortured him by handcuffing and suffocating him with plastic bags to extract a confession. Rittirong and his family pursued justice for nearly a decade, filing the case directly with the Prachinburi Provincial Court. On 28 September 2018, after nine years, only one police officer was punished, receiving a two-year prison sentence and a fine of 12,000 THB (363 USD), which was reduced to one year and 8,000 THB (242 USD) due to the officer's cooperation. However, the court further suspended his sentence for two years on account of the fact that he was a police officer and had no prior convictions. In the end, the officer did not have to serve any time in prison. His commander, who witnessed the torture but did not participate, was acquitted due to a lack of evidence of his involvement in the actual torture.²² The Appeal Court Region

¹⁹ iLaw, ‘House rejects draft emergency decree; government agencies insist emergency decree is still appropriate to address “abnormal” situations,’ 4 August 2022, available at: <https://www.ilaw.or.th/articles/5332> (in Thai)

²⁰ Translation to English is available at: <https://www.icj.org/wp-content/uploads/2012/12/Thailand-Martial-Law-1914-eng.pdf>

²¹ Translation to English is available at: <https://www.nsc.go.th/wp-content/uploads/2020/04/royal-2548-orange.pdf>

²² CrCF, ‘Prachin Buri Court sentences police officers of Prachin Buri City Police Station to 1 year in prison and a fine of 8,000 for torturing Mr. Ritthirong Chuenchit.’, 3 October 2018, available at:

II reaffirmed this ruling on 12 November 2019.²³ The victim's recourse to the Supreme Court was rejected, making the case final.²⁴ With regard to compensation, on 22 June 2022, the Southern Bangkok Civil Court ordered the Royal Thai Police to pay Rittirong 3.38 million THB (102,300 USD) for harm to his reputation, health and mental well-being. The Appeal Court reduced the compensation award to 380,000 THB (11,500 USD) on 22 December 2023.²⁵ The victim is appealing this decision to the Supreme Court.

14. The second case concerns Wichian Pueksom, a military conscript who died on 5 June 2011 from acute kidney failure due to severe physical trauma. On 23 November 2023, over 12 years after his death, the Martial Court of Military Region 46 in Pattani province convicted eight military officers for wrongful exercise of duty and other offences, including causing death through bodily injury without intent to kill. According to the verdict, Wichian was stripped, dragged on a cement floor, beaten, tied and subjected to humiliating and degrading treatment. He was also forced to eat on the ice and was beaten with a bamboo stick while being made to do push-ups. The court sentenced the defendants to prison terms ranging from two to four years. Under Martial Court law, the case is final and neither the convictions nor the sentences can be appealed. Although the Civil Court had previously ordered the Ministry of Defence, the Thai Army, and the Prime Minister's Office to pay Wichian's family 7 million THB (USD 212,000) in compensation in 2014, it took more than a decade for criminal justice to be served.²⁶
15. This concerning trend of prolonged legal battles is also reflected in the cases mentioned in Thailand's Second Periodic Report (paragraph 17). One case, dating back to April 2002, took 15 years to reach a final decision in 2017, when the Supreme Court convicted a Police Major General and a Police Colonel.²⁷ The ICJ is not familiar with the other two cases mentioned in the report, likely because they occurred over a decade ago, with court judgments issued in 2009 and 2010, and also because much of the information is not publicly available.

<https://crcfthailand.org/2018/10/03/the-prachin-court-sentenced-prachinburi-police-to-one-year-in-prison-and-fined-8000-for-the-ritthirong-case/> (in Thai)

²³ CrCF, 'The Court of Appeal upheld the lower court's decision to punish the police who tortured Ritthirong Chuenchit.', 14 November 2019, available at: <https://crcfthailand.org/2019/11/14/the-court-of-appeal-region-2-upheld-the-judgment-of-the-court-of-first-instance-sentenced-to-punish-the-police-officer-who-tortured-ritthirong-chuenchit/> (in Thai).

²⁴ Subject to Section 218 of the Criminal Procedure Code, as cited by the court, if the Appeal Court has confirmed the judgment of the lower Court or modified it only on immaterial points, and sentenced the accused to imprisonment for a term not exceeding five years or to a fine, or to both fine and imprisonment for a term not exceeding five years, there shall be no right to appeal to the Supreme Court on questions of fact.

²⁵ Prachatai, 'After fighting for 13 years, the Court of Appeal ordered the Royal Thai Police to pay 380,000 baht in compensation to Ritthirong, a victim of police brutality.', 22 December 2023, available at: <https://prachatai.com/journal/2023/12/107339> (in Thai)

²⁶ Thai PBS, 'Pattani Military Court Orders Imprisonment of 8 Soldiers Who Tortured Wichian Phueaksom', 24 November 2023, available at: <https://www.thaipbs.or.th/news/content/334255> (in Thai)

²⁷ Matichon, 'Two policemen surrender after failing to hear the verdict of a 15-year prison sentence in a case involving electric shock to gain confession and coercion of other.', 27 December 2017, available at: https://www.matichon.co.th/local/crime/news_781737#google_vignette

C. Detention under special laws (Article 2 of the Convention against Torture, Reply to paragraph 6 of the List of Issues)

Nakhon Chaisri Temporary Remand Facility (now known as Thung Song Hong Temporary Remand Facility)

16. Bilal Mohammed and Yusuf Mieraili, who are ethnic Uyghurs from Urumqi, China, were accused of involvement in the bombing of the Erawan Shrine in Bangkok on 17 August 2015. They were arrested on 29 August 2015 and 1 September 2015, respectively, under Head of the NCPO Order No. 3/2558 and subjected to seven days of administrative detention at the 11th Army Circle military base, then known as Nakhon Chaisri Temporary Remand Facility, and held until 4 and 7 September 2015, respectively.²⁸ After being briefly detained at Minburi Remand Prison in Bangkok following their first appearance at the Minburi Provincial Court, where they were charged with illegal possession of explosives, they were transferred back to the 11th Army Circle military base on 14 September 2015, where they have remained ever since.²⁹ This is despite Bilal Mohammed's allegations of torture and the deaths of two other detainees held at the same facility during the same period under suspicious circumstances³⁰ (discussed further in Part G). Thus, they have now been deprived of their liberty in a military facility for approximately nine years while being tried by the Bangkok South Criminal Court of First Instance, a process that will continue to take time, as, according to their lawyers, 125 witnesses have yet to be called to testify as of 24 September 2024.
17. In early 2019, the 11th Army Circle, along with its detention facility, was relocated to another location in Bangkok. Consequently, the Ministry of Justice issued an order, published in the Gazette on 29 March 2019,³¹ establishing the Thung Song Hong Temporary Remand Facility to replace the Nakhon Chaisri Temporary Remand Facility within the new 11th Army Circle base, specifically for national security offenders, and administered by Bangkok Remand Prison. Currently, Bilal Mohammed and Yusuf Mieraili remain the only two detainees there. According to a lawyer the ICJ spoke to, the Department of Corrections insisted that both individuals remain in the Nakhon Chaisri Temporary Remand Facility, citing "national security and safety concerns."
18. Both detainees and their lawyers have raised concerns about the conditions of their detention at the Thung Song Hong Temporary Remand Facility. From March 2020 to March 2024, the lawyers and the detainees consistently reported poor conditions to the media, stating they were not allowed to contact their relatives, were denied time

²⁸ They were held at the facility even before it was officially recognized as a place of detention. The facility was established pursuant to the Ministry of Justice's Directive No. 314/2558, dated 8 September 2015. The order explained that the Nakhon Chaisri Temporary Remand Facility was established "for the sake of maintaining security and accommodating the deprivation of liberty and the treatment of suspects in cases concerning national security and other related cases, where the suspects present special circumstances that prevent them from being held in custody with other suspects."

²⁹ Krapook, 'Timeline of the Ratchaprasong Bomb,' 30 September 2015; available at: <https://hilight.kapook.com/view/125790> (in Thai).

³⁰ ICJ & HRW, 'Nakhon Chaisri Facility,' 24 November 2015; available at: <https://www.icj.org/wp-content/uploads/2015/11/Thailand-Detention-Advocay-OpenLetter-2015-ENG.pdf>

³¹ Available at: <https://dl.parliament.go.th/handle/20.500.13072/544579>

in the prison yard, and were fed pork despite their Muslim faith.³² On 29 August 2023 and 20 February 2024, they were brought to court in wheelchairs, complaining about various health issues and of not receiving proper healthcare at the facility.³³ Both detainees also reported a significant deterioration in their health due to refusing the food provided by the prison,³⁴ which led the court to order that they be provided with appropriate medical treatment and meals in keeping with Islamic dietary customs.

Administrative detention under Martial Law and Emergency Decree

19. Additionally, as the Martial Law and Emergency Decree remain in force in the southern border provinces without amendments since the Committee adopted the previous Concluding Observations in 2014, administrative detention of up to 37 days (7 days under Martial Law and up to 30 days under the Emergency Decree) without charge and adequate judicial oversight in facilities not officially recognized as places of detention—primarily military camps—continue, rendering such detention arbitrary and creating an environment prone to torture, CIDT/P, and enforced disappearance.
20. Individuals suspected of involvement in or of having knowledge of violent incidents in the region continue to be detained in various "interrogation centers" located within military camps and police regional headquarters. The ICJ is concerned that Thailand maintains that those detained under the Martial Law and Emergency Decree should not be treated as suspects in criminal cases,³⁵ which results in them being entitled to fewer legal rights than those afforded to such criminal suspects. According to various CSOs monitoring such detentions in the region, detainees under the Martial Law and Emergency Decree continue not to be physically brought before the court for judicial oversight, both at the time of arrest and during the extension of their detention under Emergency Decree warrants. They also continue to lack access to lawyers who could provide legal support and face restrictions when meeting with family and relatives, as visits are usually limited to a few minutes and, in any event, to a maximum of 30 minutes, conducted in the presence of military officers equipped with video and audio recording.

³² For example: BBC Thai, 'Ratchaprasong Bomb, Lawyer Said Transferring the Case to Civilian Court Positively Impact the Defendants,' 2 March 2020; available at: <https://www.bbc.com/thai/thailand-51669393> (in Thai); Benar News, 'Uyghur Bombing Suspects Describe Deplorable Conditions in Thai Military Prison,' 17 January 2022; available at: <https://www.benarnews.org/english/news/thai/suspects-talk-01172022122028.html>

³³ Radio Free Asia, '2 Uyghur suspects in Bangkok bombing return to court after 9-month delay,' 29 August 2023; available at: <https://www.rfa.org/english/news/uyghur/bangkok-bombing-08292023132901.html>

³⁴ RFA, 'Thai judge accepts Uyghur bomb suspects request for Halal food,' 21 February 2024, available at: <https://www.rfa.org/english/news/uyghur/bomb-suspects-trial-02212024160734.html>

³⁵ Second Periodic Report, para 28(d).

D. Enforced Disappearance (Article 2 of the Convention against Torture, Reply to paragraph 7 of the List of Issues)

Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED)

21. During the reporting period, after signing on 9 January 2012, Thailand ratified the ICPPED on 14 May 2024, with a reservation to Article 42(1)³⁶ of the ICPPED.³⁷ However, particularly in light of Thailand's weak track record in providing redress and ensuring accountability for human rights violations, the ICJ regrets that the country did not make a declaration under Articles 31 and 32 of the ICPPED, which would allow the UN Committee on Enforced Disappearances to receive individual communications and communications from other States alleging violations of the Convention.

Recognition of enforced disappearance as a crime under domestic law

22. Enforced disappearance is now recognized as a crime under the Prevention and Suppression of Torture and Enforced Disappearance Act. Section 7 of the Act defines enforced disappearance as "a person who is a public official³⁸ detaining³⁹ or abducting a person, and whereby a public official denies committing such an act or conceals the fate or whereabouts of the person, resulting in the exclusion of the person from legal protection."
23. The ICJ welcomes the recognition of the continuing nature of enforced disappearance, as acknowledged in Article 7 of the Act. The organization, however, has observed that various responsible law enforcement authorities have differing interpretations of this notion (i.e., the continuing nature of enforced disappearance), several of which are incompatible with the Working Group on Enforced or Involuntary Disappearances' authoritative guidance emphasizing that it is possible to prosecute someone for enforced disappearance based on a legal instrument enacted after the disappearance began.⁴⁰
24. In any event, despite the abovementioned recognition of the continuing nature of enforced disappearance, investigations and prosecutions to uncover the fate and whereabouts of victims who disappeared before the enactment of the Act, and whose fates and whereabouts remain undisclosed, continue to be slow, including those

³⁶ In the ICJ's view, such reservation may be invalid under Article 19(c) of the Vienna Convention on the Law of Treaties, as it could be seen as inconsistent with the object and purpose of the Convention by removing a key means of challenging violations and accessing justice.

³⁷ ICJ, 'Thailand: Ratification of the Convention on Enforced Disappearance an important step for justice and accountability', 16 May 2024, available at: <https://www.icj.org/thailand-ratification-of-the-convention-on-enforced-disappearance-an-important-step-for-justice-and-accountability/>

³⁸ Section 3 of the Act defines a "public official" as a person who exercises or is bestowed with state power, or who is appointed, receives permission, is supported, or is recognized—either directly or indirectly—by the holders of state power to carry out their legal duties.

³⁹ Section 3 of the Act defines "detention" as including "an arrest, deprivation of liberty, confinement, isolation, incarceration, or any other similar acts restricting a person's bodily liberty."

⁴⁰ See, General Comment on Enforced Disappearance as a Continuous Crime, available at: <https://www.ohchr.org/sites/default/files/Documents/Issues/Disappearances/GC-EDCC.pdf>

mentioned in the Committee's List of Issues, with only limited progress in certain cases, as will be explained below.

Lack of progress in uncovering the fate and whereabouts of those who allegedly disappeared

25. Regarding the investigation into Pholachi (“Billy”) Rakcharoen, who was last seen on 17 April 2014 in the custody of Kaeng Krachan National Park officials, and to whose case the List of Issues refers, it is regrettable that Thailand has continued to fail to ensure justice for his disappearance. Although some progress was made on 12 September 2019, when the Department of Special Investigation (DSI) of the Thai Ministry of Justice located bone fragments identified as likely belonging to Billy, and on 15 August 2022, when four Kaeng Krachan National Park officials were indicted on premeditated murder and other charges, concerns persist.⁴¹ On 28 September 2023, Thailand’s Criminal Court for Corruption and Misconduct Cases acquitted the officials of murder-related charges, including premeditated murder and concealing the victim’s body. Only Chaiwat Limlikit-aksorn, former chief of Kaeng Krachan National Park, was convicted of “malfeasance in office” for failing to hand Billy over to responsible authorities after his arrest, and sentenced to three years in prison. The court concluded that there was insufficient evidence to prove that park officials orchestrated the killing, although it noted that it did not believe Billy had been released as claimed by the accused. Regarding the bone fragments, subsequent DNA tests indicated a maternal relation between the fragments and Billy’s mother, but the court ruled there was insufficient evidence to establish that they belonged to Billy, as opposed to other maternal relatives who may have passed away during the same period.⁴² The case is currently under appeal by the public prosecutor and Billy’s family.
26. With respect to Somchai Neelapaijit, to whose case the List of Issues refers, following the acquittal of all five accused policemen on 29 December 2015, the DSI informed Somchai’s wife, Angkhana Neelapaijit, on 5 October 2016, that after 11 years and 3 months of investigation, the case would be closed due to the inability to find any culprits. To date, Somchai’s fate and whereabouts remain unknown, and no one has been brought to justice.⁴³
27. Similarly, in the case of Den Kamlae, a land rights activist who disappeared on 16 April 2016 while hunting, there has been little progress in determining his fate. In March 2017, a partial skull was discovered in the forest where Den disappeared, and DNA analysis indicated a high probability that it belonged to him. While authorities have reportedly commenced an investigation into his death, little progress has been

⁴¹ ICJ, ‘Thailand: Indictment of park officials for killing of “Billy” is a significant step towards justice,’ 18 August 2022, available at: <https://www.icj.org/thailand-killing-of-billy/>

⁴² ICJ, ‘Thailand: Justice in the case of slain Karen activist “Billy” is again deferred as park officials are acquitted of responsibility for his killing,’ 28 September 2023, available at: <https://www.icj.org/thailand-justice-in-the-case-of-slain-karen-activist-billy-is-again-deferred-as-park-officials-are-acquitted-of-responsibility-for-his-killing/>

⁴³ ICJ, ‘Ten Years Without Truth: Somchai Neelapaijit and Enforced Disappearances in Thailand,’ March 2014, available at: <https://www.icj.org/wp-content/uploads/2024/08/Ten-Years-Without-Truth-Somchai-Neelapaijit-and-Enforced-Disappearances-in-Thailand-report-2014.pdf>; and Neelapaijit Family and the ICJ, ‘Commemorating 20 Years Since the Enforced Disappearance of Somchai Neelapaijit,’ March 2024, available at: https://www.icj.org/wp-content/uploads/2024/08/TWO-DECADES-IN-SEEKING-TRUTH-AND-JUSTICE_EN.pdf

made. A forensic examination of the partial skull could not definitively establish Den's fate, and according to the DSI, the damage to the skull was likely caused postmortem. However, an independent expert consulted by the family considers that there is a possibility that the damage to the skull could have resulted from impact with a sharp object, either prior to or after death. Despite this, there has been no progress in sending the remains for further examination by an independent forensic pathologist, as requested by Den's family.

28. In addition to the above cases, between 1980 and May 2024, the UN Working Group on Enforced or Involuntary Disappearances recorded and transmitted 94 cases of alleged enforced disappearances to Thailand. Currently, 77 of these cases remain unresolved,⁴⁴ with almost no progress reported to the public.

The extraterritorial abduction of political activists

29. Additionally, in the past decade, another trend has emerged in which exiled political activists in Thailand, Lao PDR, Cambodia, and Vietnam disappeared abroad, and their fate and whereabouts could not be established at all. In some cases, they were later found in detention facilities in their home countries. As noted by the UN Special Procedures, "these cases appear to point to a pattern of countries in the region coordinating or acquiescing to the extraterritorial abduction of political activists who have fled abroad, leading to enforced disappearances." In relation to Thailand, the UN Special Procedures identified the following cases: Wanchalearm Satsaksit, Siam Theerawut, Surachai Danwattananusorn, Chatchan Bubphawan, Kraidej Luelert, and Itthipol Sukpan—Thai political activists who disappeared and were abducted in Cambodia, Lao PDR, and Vietnam, two of whom had their corpses discovered in border areas. Regarding non-Thai nationals disappearing in Thailand, the identified cases include Od Sayavong, a Lao PDR national, human rights defender, and former member of "Free Lao," and Truong Duy Nhat, a Vietnamese blogger, journalist, and human rights defender.⁴⁵ The fate of Truong Duy Nhat is similar to the recent alleged abduction of Duong Van Thai in 2023 while living in exile in Thailand, who was later found detained in Vietnam for "illegally crossing the border to enter Vietnam" from Lao PDR.⁴⁶

30. Similarly, on 10 June 2024, the National Human Rights Commission of Thailand (NHRCT) submitted a report to the Ministry of Justice regarding the disappearance of

⁴⁴ WGIED, 'Report of the Working Group on Enforced or Involuntary Disappearances,' A/HRC/57/54, 26 July 2024, available at: <https://documents.un.org/doc/undoc/gen/q24/122/18/pdf/q2412218.pdf>

⁴⁵ Mandates of the Working Group on Enforced or Involuntary Disappearances; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on extreme poverty and human rights and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 'AL THA 8/2020,' 11 December 2020, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?qId=25646>

⁴⁶ Bangkok Post, 'Vietnam accused of abducting blogger from Thailand,' 21 April 2023, available at: <https://www.bangkokpost.com/thailand/general/2554356/vietnam-accused-of-abducting-blogger-from-thailand>

nine self-exiled Thai political activists between 2017 and 2021 in Cambodia, Lao PDR and Vietnam. The missing activists are Ittipon Sukpaen, Wuthipong Kochathamakun, Surachai Danwattananusorn, Chucheep Chiwasut, Kritsana Thapthai, Siam Theerawut, Wanchalearm Satsaksit, Chatcharn Buppawan and Kraidej Luelert. The bodies of the last two were found stuffed in concrete along the Mekong River in late 2018. The NHRCT claimed that the government had been negligent in pursuing these cases, and there has been no progress in prosecuting the perpetrators, raising suspicions that State agencies may have been involved.⁴⁷

31. For the sake of completeness, the ICJ draws the Committee's attention to recent efforts to investigate the fate and whereabouts of Thai victims who disappeared outside of Thailand. This includes the creation of the Sub-Committee on Following and Examining Cases of Enforced Disappearance in Other Countries, established under the Prevention and Suppression of Torture and Enforced Disappearance Act. Formed on 30 August 2024, the sub-committee is chaired by the Director-General of the Department of Investigation of the Office of the Attorney General. It comprises 14 members representing various government agencies and the Lawyer Council of Thailand.⁴⁸ Unfortunately, it does not include representatives from victims' families or civil society organizations.

E. Non-Refoulement (Article 3 of the Convention against Torture, Reply to paragraph 11 of the List of Issues)

32. Section 13 of the Prevention and Suppression of Torture and Enforced Disappearance Act incorporates the *non-refoulement* principle, stating that "No government organizations or public officials shall expel, deport, or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of torture, CIDT/P, or enforced disappearance."
33. Despite this provision, the ICJ observed a concerning case that could set a dangerous precedent in the interpretation of this law. It also marks the first test case in Thai courts where an extradition request has been challenged based on Section 13 of the Act. The case arises from Vietnam's request to Thailand for the extradition of Y Quynh Bdap, a member of the Montagnard ethnic minority in Vietnam and a refugee recognized by the United Nations High Commissioner for Refugees (UNHCR). Vietnam is seeking Bdap's extradition to serve a 10-year prison sentence on "terrorism" charges, imposed *in absentia* by the People's Court of Dak Lak—in criminal proceedings criticized by several UN human rights experts for failing to meet international fair trial standards. Despite substantial evidence indicating that Bdap faces a real risk of torture or other CIDT/P if extradited, in violation of both Thailand's international and domestic laws,⁴⁹ the Court ruled on 30 September 2024 that there are substantial grounds to extradite Bdap in accordance with Section 19 of Thailand's

⁴⁷ Bangkok Post, 'Rights body wants results on missing activists', 12 June 2024, available at: <https://www.bangkokpost.com/thailand/politics/2809279/rights-body-wants-results-on-missing-activists>

⁴⁸ Available at: https://drive.google.com/drive/folders/1KRol_CgYt0kYAty-4aJXjZjvPmf380Lt

⁴⁹ ICJ, 'Thailand: The International Commission of Jurists submits a legal brief on the non-refoulement principle under international law in the extradition proceedings against Y Quynh Bdap,' 19 August 2024, available at: <https://www.icj.org/thailand-the-international-commission-of-jurists-submits-a-legal-brief-on-the-non-refoulement-principle-under-international-law-in-the-extradition-proceedings-against-y-quynh-bdap-2/>

Extradition Act B.E. 2551 (2008), without considering the Prevention and Suppression of Torture and Enforced Disappearance Act, as argued by lawyers and several experts, including the ICJ through the submission of an *amicus curiae* brief.⁵⁰ This decision renders section 13 of the Prevention and Suppression of Torture and Enforced Disappearance Act ineffective in practice. Currently, Bdap's lawyer has informed the press that her client would appeal the decision.⁵¹

F. Deaths in custody in disputed circumstances (Article 11 of the Convention against Torture, Reply to paragraph 20 of the List of Issues)

34. In response to the Committee's queries regarding the investigation of deaths in custody in disputed circumstances, the ICJ regrets that little progress has been made in the cases known to the organization. Measures intended to prevent similar incidents in the future, as inquired by the Committee, have also not been communicated to the public, if they exist. Under section 150 of Thailand's Criminal Procedure Code, when any death in custody results from an act of an official claiming it occurred during the performance of public duties or during restraint by an official, an autopsy must be conducted, and the court must hold an inquest. In such cases, the court is required to determine, as far as possible, the identity of the deceased, the time and place of death, its cause and circumstances, and, if it is certain the death was caused by an individual, the identity of that person. However, these procedures have not always been followed or, in some cases, have not occurred at all, including in those cases referenced by the Committee.⁵² In other instances, the inquests were conducted but could have provided more insight into the cause and circumstances of death—a crucial element for any criminal investigation that may follow.

35. A notable example of cases where inquests were conducted but failed to clarify the cause and circumstances of death is the so-called Tak Bai incident. On 25 October 2004, over 1,500 protesters gathered in front of the Tak Bai police station in Narathiwat province. Security forces used live ammunition to disperse the crowd, resulting in the deaths of seven protesters. Approximately 1,300 others were detained, piled inhumanely on top of each other in army trucks with their arms tied behind their backs, and transported for several hours. When unloaded, 78 detainees had died from suffocation, and over 30 were seriously injured. A 2009 post-mortem inquest by the Songkhla Provincial Court concluded that the 78 men had died of suffocation but failed to fully address the circumstances surrounding their deaths. No

⁵⁰ *Ibid*

⁵¹ Additionally, under Section 22 of the Extradition Act, following the Court's decision authorizing the extradition, the Thai Government must itself approve the extradition of the person concerned; if the Government's approval of the extradition is not forthcoming within 90 days from the Court's decision approving it, it signifies that the Government has decided not to enforce the extradition order. See: AP, 'Thai court orders extradition of Vietnam activist who rights groups say will be at risk if returned,' 30 September 2024, available at: <https://apnews.com/article/thailand-vietnam-activist-extradition-human-rights-172249a8c83dc5788ee266b1605e3f1b>

⁵² List of Issues, para. 20; ICJ & Human Rights Watch, 'Nakhon Chaisri Facility,' 24 November 2015; available at: <https://www.icj.org/wp-content/uploads/2015/11/Thailand-Detention-Advocay-OpenLetter-2015-ENG.pdf>

inquest was held for the seven protesters shot dead during the protest.⁵³ Following the inquest, no progress was made in the investigation, and no one was held accountable.

36. This case became relevant to the current reporting period because, in April 2024, with only six months remaining before the 20-year statute of limitations expires on 25 October 2024, 48 victims and families of those killed decided to take the case directly to court, instead of waiting for the authorities to initiate criminal proceedings. This led to a historic ruling on 23 August 2024, where the Narathiwat Provincial Court found sufficient evidence to put seven former high-ranking military, police, and administrative officials on trial.⁵⁴ However, all the defendants did not appear in court, and arrest warrants were issued against those who fled,⁵⁵ as the statute of limitations fast approaches.⁵⁶
37. Another example is the case of Abdulloh Esomuso, an insurgent suspect who died on 25 August 2019 after being found unconscious on 21 July 2019 while in custody at the Ingkayutthaboriharn military camp in Pattani province, where he had been detained under Martial Law since 20 July 2019.⁵⁷ A two-year inquest by the Songkhla Provincial Court, featuring testimony from 21 people, concluded on 9 May 2022 that there was no evidence to establish that Abdulloh died from a physical assault. The court ruled that he died from oxygen deprivation to the brain and heart failure while in detention.⁵⁸ After the conclusion of the inquest, there has been no progress in the criminal investigation.
38. A more recent case is that of Netiporn "Bung" Sanesangkhom, an activist who died on 14 May 2024 while in custody on *lèse-majesté* charges after being denied bail, following two hunger strikes she undertook to protest her detention and that of other

⁵³ ICJ, 'Thailand: Court Delivers Disappointing Post-Mortem Inquest Findings In Tak Bai Incident, 29 May 2009, available at: <https://www.icj.org/wp-content/uploads/2012/04/Thailand-Court-delivers-disappointing-post-mortem-inquest-findings-Press-release-2009.pdf>

⁵⁴ ICJ, 'Thailand: A historic step towards justice in the Tak Bai incident', 23 August 2024, available at: <https://www.icj.org/thailand-a-historic-step-towards-justice-in-the-tak-bai-incident/>

⁵⁵ Arrest warrants were issued for six of them, while a summons was issued for the seventh defendant, former Army Region 4 commander Gen. Pisal Wattanawongkiri. He is allegedly protected under parliamentary immunity as a list MP of the governing Pheu Thai Party, under section 125 of the Constitution.

⁵⁶ This also prompted public prosecutors to announce on 18 September 2024 that eight more former security personnel had been indicted for their roles in the Tak Bai crackdown. All eight — six soldiers and two civilians — are charged with premeditated murder with foreseeable consequences, just weeks before the statute of limitations expires. See: Bangkok Post, 'Eight more charged in 2004 Tak Bai massacre', 18 September 2024, available at: <https://www.bangkokpost.com/thailand/general/2867881/eight-more-charged-in-2004-tak-bai-massacre>

⁵⁷ Bangkok Post, 'South suspect dies in hospital', 26 August 2019, available at: <https://www.bangkokpost.com/thailand/general/1736635/south-suspect-dies-in-hospital>

⁵⁸ BenarNews, 'Thai court: No assault or foul play in suspected insurgent's in-custody death', 9 May 2022, available at: <https://www.benarnews.org/english/news/thai/inquest-report-05092022134602.html>

activists.⁵⁹ The autopsy indicated that she died from acute heart failure, mineral metabolic abnormalities, and an enlarged heart. Questions have been raised about the treatment she received at the prison hospital leading up to her death. Despite her family's unsuccessful requests for medical records and CCTV footage from the hospital ward, more than 100 days have passed, and the court has yet to officially commence the death inquest to examine this case.⁶⁰

G. Allegations of Torture and CIDT/P (Article 12-13 of the Convention against Torture, Reply to paragraph 23 of the List of Issues)

39. In November 2023, the Ministry of Justice informed the ICJ that prior to the enactment of the Prevention and Suppression of Torture and Enforced Disappearance Act, there were 564 complaints: 468 allegations of torture and 96 of enforced disappearance (including those transmitted by the WGIED). Further, by February 2023, investigations had been discontinued in 464 torture cases and 17 enforced disappearance cases, without any publicly available information regarding the nature of these cases, their prosecution, or the reasons for ending the investigations (an example is provided below in paragraphs 44-46). On the same occasion, the Ministry clarified that four allegations of torture and nine of enforced disappearance remain "pending," while 70 enforced disappearance cases were "forwarded to other governmental agencies," with no clarity on the steps taken, investigations conducted, or updates provided to the public.

40. Since the Prevention and Suppression of Torture and Enforced Disappearance Act came into force, also as of November 2023, there have been 57 complaints: 27 allegations of torture, six of enforced disappearance, and 24 of CIDT/P (falling short of torture). Investigations have been discontinued in four cases, with 53 cases still pending. No reports have been made publicly available regarding the nature of these cases or their prosecution under the Act.

41. Despite the numerous allegations and ongoing investigations by police and public prosecutors, more than a year has passed since the enactment of the Act and, to the ICJ's knowledge, only one case of alleged CIDT/P has reached the courts. This case, submitted to the Criminal Court for Corruption and Misconduct Cases, Region V, on 27 December 2023, involved military conscript Kittithorn Wiangbanpot, who died on 16 July 2023 from septicemia following sickness and injuries sustained during a training exercise. The public prosecutor indicted two military trainers for CIDT/P under Article 6 of the Act.⁶¹

⁵⁹ ICJ, 'Thailand: Joint letter to the Minister of Justice regarding the abuse of judicial process, arbitrary detention, and Netiporn Sanesangkhom's death in custody', 18 June 2024, available at: <https://www.icj.org/thailand-joint-letter-to-the-minister-of-justice-regarding-the-abuse-of-judicial-process-arbitrary-detention-and-netiporn-sanesangkhoms-death-in-custody/>

⁶⁰ Prachatai, '112 days of the death of 'Bung Taluwang', hoping that the justice process will reveal the truth about Bung's death quickly', 3 September 2024, available at: <https://prachatai.com/journal/2024/09/110560>; Bangkok Post, 'Lawyer says activist's autopsy raises questions', 16 May 2024, available at: <https://www.bangkokpost.com/thailand/general/2794185/lawyer-says-activists-autopsy-raises-questions>

⁶¹ CrCF, 'The Criminal Court for Corruption Cases, Region V, examined 13 plaintiff and defendant witnesses, postponed the examination of defendant witnesses to 11 November 2024, in Kittithon case', 13 September 2024, available at: <https://crcfthailand.org/2024/09/13/the-criminal-court->

42. Regarding the three cases mentioned by the Committee in paragraph 23 of the List of Issues, the ICJ wishes to provide an update on the progress of the investigation into the allegations of torture made by Bilal Mohammed. According to Bilal Mohammed's lawyer, he submitted a motion to the court on 15 January 2016 based on Bilal's allegations that he was subjected to torture and CIDT/P by officers at the Nakhon Chaisri Temporary Remand Facility between 14 and 26 September 2015. This treatment, which allegedly included waterboarding, the use of a dog to menace him at close proximity, threats of death, and threats of extradition to China, was intended to coerce a confession regarding his involvement in the Erawan Shrine bombing.⁶² In response, according to the lawyer interviewed by the ICJ, the court requested clarification from the Ministry of Justice's Department of Corrections. On 23 August 2016, the Department announced the outcome of its investigation into the alleged "abuse/mistreatment" of Bilal Mohammed, merely concluding that the allegations were unfounded, without providing any reasoning or explanation. The Bangkok Military Court accepted this conclusion without further examination or an investigation that met international standards.

H. Independent and impartial bodies to investigate torture and CIDT/P allegations (Article 12-13 of the Convention against Torture, Reply to paragraph 24 of the List of Issues)

Committee formed under Order No. 131/2560

43. The Committee established in May 2017 under Order No. 131/2560 (2017) of the Office of the Prime Minister, which the List of Issues references in paragraph 24, was dissolved following the enactment of the Prevention and Suppression of Torture and Enforced Disappearance Act. This Committee was replaced by the Prevention and Suppression of Torture and Enforced Disappearance Committee, formed under the new Act.

44. Nevertheless, some decisions handed down by the Committee established under Order No. 131/2560 raise concern regarding the authorities' understanding of torture and CIDT/P. For instance, in the case of Attasith Nussa, who alleged that he was subjected to torture while in police custody between 29 and 30 October 2021, the Committee's ruling on his complaint gives rise to serious concern. Attasith claimed that, in an effort to extract his phone passcode and confession, as he was suspected of involvement in setting fire to a shrine and shooting at police officers during a protest, he was beaten with a police baton, pinned down to a wooden sofa, and choked by a police officer to the point he recalled nearly losing consciousness twice. However, in June 2022, the Committee dismissed his complaint, citing the Convention against Torture's definition and concluding that the police actions did not constitute

[for-corruption-cases-region-5-reviewed-13-witnesses-and-set-the-next-session-for-november-11-2024-in-the-private-kittithon-case/?fbclid=IwY2xjawFXsdJleHRuA2FibQIxMAABHQfv_dAPt8PoW9t5XseCq_HwTBXtByyLN-gmgRiNRSVaczaP9ySpktgx1A_aem_mv6qzejH96uLsmQxEkmDoQ](https://www.ohchr.org/en/press-releases/2024/11/2024-11-2024-in-the-private-kittithon-case/?fbclid=IwY2xjawFXsdJleHRuA2FibQIxMAABHQfv_dAPt8PoW9t5XseCq_HwTBXtByyLN-gmgRiNRSVaczaP9ySpktgx1A_aem_mv6qzejH96uLsmQxEkmDoQ) (in Thai)

⁶² Defendant's Testimony in the case between Military Prosecutor v. Bilal Mohammed et al, Black Case No. 217/2558, dated 19 April 2016.

torture because they were not aimed at extracting a confession and Attasith had not sustained severe injuries. Consequently, the investigation was closed.⁶³

45. In November 2023, in response to Attasith's appeal, the Ministry of Justice's DSI upheld the Committee's dismissal of his complaint, citing insufficient evidence to establish that torture or CIDT/P had occurred. The dismissal was based on Attasith having signed a testimonial document and a memorandum of voluntary consent to examine his electronic device, which, he maintains, he had done out of fear of being tortured. The Committee's initial ruling on Attasith's complaint and the DSI's dismissal of his appeal set a concerning precedent as they could affect future cases involving torture and CIDT/P, and ultimately give rise to serious concern about lack of accountability for such human rights violations and the possibility that other cases may have been closed for similar reasons without thorough investigation.

46. Attasith's case was also referred to the National Anti-Corruption Commission (NACC) for further investigation, although the NACC typically takes several years to conclude cases.⁶⁴

Prevention and Suppression of Torture and Enforced Disappearance Committee

47. Regarding the new Prevention and Suppression of Torture and Enforced Disappearance Committee, it is chaired by the Minister of Justice and is composed solely of government officials, law enforcement authorities, and independent experts. This includes representatives from the Ministry of Defence and the Royal Thai Police—the very authorities in charge of security and law enforcement officials who have been the object of many allegations of torture, CIDT/P, and enforced disappearances. The membership of the Committee gives rise to concern about its independence and impartiality, especially since earlier drafts of the Act included provisions for "injured persons and their representatives" to be part of the Committee. However, those

⁶³ CrCF, 'The Screening Sub-Committee decided to "end the investigation!" in the case of Atthasit Nussa, who was physically beaten by police at Din Daeng Police Station', 22 June 2022, available at: <https://www.facebook.com/photo.php?fbid=5187679461279298&id=398415390205753&set=a.41709898837393> (in Thai)

⁶⁴ According to the interview the ICJ had with Attasith's lawyer. Additionally, on 26 August 2024, the Bangkok Civil Court dismissed a tort claim made by Attasith against the Royal Thai Police, as the Court held the view that there was insufficient evidence to prove the injuries were caused by torture rather than the fight during the arrest, despite testimonies from a doctor and Attasith himself confirming the opposite. See: Prachatai, 'The Civil Court dismissed the complaint against the Royal Thai Police in the 'Atthasit' case, which sought damages for being beaten while questioned by the police', 26 August 2024, available at: <https://prachatai.com/journal/2024/08/110487#:~:text=%E0%B9%80%E0%B8%9C%E0%B8%A2%E0%B9%81%E0%B8%9E%E0%B8%A3%E0%B9%88%E0%B9%80%E0%B8%A1%E0%B8%B7%E0%B9%88%E0%B8%AD%E0%B8%A7%E0%B8%B1%E0%B8%99%E0%B8%97%E0%B8%B5%E0%B9%88%2026,%E0%B8%A2%E0%B8%B4%E0%B8%87%E0%B8%95%E0%B8%B2%E0%B8%A2%E0%B8%AB%E0%B8%99%E0%B9%89%E0%B8%B2%E0%B8%AA%E0%B8%99.%E0%B8%94%E0%B8%B4%E0%B8%99%E0%B9%81%E0%B8%94%E0%B8%87>

provisions were removed from the final version of the legislation.⁶⁵ As of 7 August 2024, this Committee, despite its critical role, had met only twice during the year.⁶⁶

48. Moreover, the Act grants the Committee investigatory powers, including the ability to receive complaints, follow up on cases, and examine facts,⁶⁷ which may not be appropriate given the Committee's current composition. Nonetheless, the ICJ considers that the Committee may still have the authority to review complaints submitted to them alleging, for example, that investigations have either not occurred or failed to meet the necessary standards of effectiveness, independence, impartiality, thoroughness, promptness, and transparency.⁶⁸

49. A Sub-Committee on Screening the Facts in Cases of Torture and Enforced Disappearance was also established, chaired by the Director-General of the Ministry of Justice's Rights and Liberties Protection Department. Like the main Committee, this Sub-Committee is primarily composed of government and law enforcement representatives, including members of the Royal Thai Police, thus emanating from institutions and bodies that have been the object of many allegations of torture and enforced disappearance over the years. It also includes a representative from the Lawyer's Council of Thailand but lacks representation from civil society organizations or victims' families. The Sub-Committee's preliminary tasks are to follow up on and examine information and facts related to torture and enforced disappearances. As of 15 August 2024, this Sub-Committee had also only met twice during the year.⁶⁹

50. Despite the above concerns, Section 31 of the Prevention and Suppression of Torture and Enforced Disappearance Act attempts to address the need for independent investigations within law enforcement. It assigns responsibility to various investigative bodies, including police inquiry officers, officers from the DSI, public prosecutors, and senior administrative officials, to conduct inquiries into these cases. However, it remains to be seen how these provisions will be implemented in practice. With so many agencies involved, proper coordination will be essential to avoid confusion for complainants, particularly regarding whom they should approach.

I. Protection of victims, witnesses, and families (Articles 12-13 of the Convention against Torture, Reply to paragraph 25 of the List of Issues)

51. Regarding Thailand's efforts to ensure the effective protection and assistance of witnesses, victims and their families, a significant step forward has been made with the adoption of Section 29 of the Prevention and Suppression of Torture and Enforced

⁶⁵ Section 14 of the Prevention and Suppression of Torture and Enforced Disappearance Act

⁶⁶ Lawyer Council of Thailand, 'Meeting of the Committee for the Prevention and Suppression of Torture and Disappearance No. 2/2024', 7 August 2024, available at: <https://www.lawyerscouncil.or.th/2019/2024/08/07/3-286/>

⁶⁷ Section 19(6) of the Prevention and Suppression of Torture and Enforced Disappearance Act

⁶⁸ ICJ and Amnesty International, 'The ICJ and Amnesty International analysis of the existing shortcomings of the Draft Prevention and Suppression of Torture and Enforced Disappearance Act', 2022, available at: https://www.icj.org/wp-content/uploads/2024/08/EN_analysis_shortcomings_24_Aug.pdf

⁶⁹ Ministry of Justice, 'No. 950/2024, RLPD organized a meeting of the Sub-committee to screen facts in cases of torture and disappearances No. 2/2024', 15 July 2024, available at: <https://www.moj.go.th/view/97719> (in Thai)

Disappearance Act. This provision stipulates that individuals who report acts of torture, CIDT/P, or enforced disappearance, if acting in good faith, will not be held accountable for any civil or criminal offences or face disciplinary action related to their reporting. This protection applies even if it is later determined that the reported offence did not occur.

52. It is hoped that this development may prevent cases like that of Anuphong Phanthachayangkun, which was also referenced in the List of Issues. Anuphong, a former Sub-district Head from Su-ngai Padi District in Narathiwat province, was sentenced to one year in prison on 22 November 2017, after the Supreme Court upheld the lower court's verdict. He was convicted of making a false complaint against a police investigation team, claiming he had been tortured into confessing his involvement in a 2004 armed robbery and the murder of a police officer.⁷⁰ Anuphong was released on 10 November 2018, after completing his prison sentence.
53. Another case raises significant concern about Thailand's long-term protection and assistance for families of enforced disappearance victims, as it involves the court's refusal to extend the protection program despite a threatening instance reported by the family. This is the case of Angkhana Neelapaijit, the wife of Somchai Neelapaijit, a victim of enforced disappearance whose fate and whereabouts remain unknown, with no one held accountable, as mentioned in paragraph 26. In March 2008, the DSI agreed to provide Angkhana Neelapaijit with protection under the Witness Protection Program. However, on 22 March 2022, the DSI informed Angkhana that its Special Case Investigation Division had decided to end her protection as of 1 April 2022, following the decision of the Witness Protection Committee under the Witness Protection Act B.E. 2546. Angkhana was further informed that there had been no threats or intimidation against her in the past four years.⁷¹ Angkhana appealed the DSI's decision to the Criminal Court. Despite an incident in April 2022, where an unidentified individual threw a 9-inch pair of scissors at her home in Bangkok, the Court in October 2022 allowed the DSI to cease providing witness protection. The Court cited the lack of a credible threat and noted that the investigation into her husband's case had been closed for a significant time.⁷²

J. Redress and compensation measures (Articles 14 of the Convention against Torture, Reply to paragraph 26 of the List of Issues)

54. There are no specific redress and compensation measures available for victims of torture, CIDT/P, and enforced disappearance. In many cases the ICJ has followed, victims and their families sought compensation by bringing the case to the Civil Court themselves, suing the perpetrators' agencies under the Act on Tortious Liabilities of

⁷⁰ ICJ and TLHR, 'Joint Submission in view of the UN Committee against Torture's adoption of a List of Issues to be transmitted to the Kingdom of Thailand prior to the submission of its Second Periodic Report under Article 19 of the Convention,' 29 January 2018, available at: <https://www.icj.org/wp-content/uploads/2018/01/Thailand-CAT-Submission-Advocacy-non-legal-submission-2017-ENG.pdf>; Prachatai, 'Ex-kamnan from Deep South jailed for accusing police of torture', 24 November 2017, <https://prachatai.com/english/node/7485>

⁷¹ Neelapaijit Family and the ICJ, 'Commemorating 20 Years Since the Enforced Disappearance of Somchai Neelapaijit,' March 2024, available at: https://www.icj.org/wp-content/uploads/2024/08/TWO-DECADES-IN-SEEKING-TRUTH-AND-JUSTICE_EN.pdf

⁷² *Ibid*

Officials B.E. 2539 (1996). Under this law, a State agency may be found liable for the tortious acts committed by its officials in the course of their duties.

55. In the southern border provinces, as mentioned in the Second Periodic Report, the Southern Border Provinces Administrative Center (SBPAC) provides both monetary and non-monetary support to victims of violence in the region. According to the SBPAC's Handbook released in 2020,⁷³ this includes cases of enforced disappearance within the context of violence in the southern border provinces. Victims in such cases are entitled to compensation of THB 500,000 (approximately USD 15,200). Nevertheless, SBPAC does not provide compensation in cases of torture or CIDT/P. Most former detainees who were suspects, accused, or detainees under Martial Law, the Emergency Decree, or the Criminal Procedure Code in the southern border provinces, and who have subsequently been found not guilty or have been released due to a non-prosecution order by an inquiry officer or public prosecutor, or acquitted by a final court decision, may only be eligible for compensation for the deprivation of liberty despite their credible allegations of torture and CIDT/P while in detention. As noted in paragraph 29 of the Second Periodic Report, these victims can receive THB 30,000 (USD 926), along with compensation for lost income at a rate of THB 400 (USD 12) per day while detained. However, gaps remain. For instance, according to information obtained by the ICJ, if individuals are acquitted on the basis of insufficient evidence to convict them of the crime with which they were charged, they would not be considered "not guilty" and thus would not be entitled to the above-noted compensation.

56. The ICJ has noted the Prevention and Suppression of Torture and Enforced Disappearance Committee's efforts, which established a Sub-Committee to Assist and Remedy Victims of Torture and Enforced Disappearance. The Committee has also drafted Regulations on Assistance, Remedy, and Rehabilitation for Victims under the Prevention and Suppression of Torture and Enforced Disappearance Act, which are currently pending consideration by the Ministry of Finance. The regulations propose an "initial financial compensation" of 500,000 THB (15,200 USD) for victims of torture and enforced disappearance, and between 100,000-200,000 THB (3040 – 6080 USD) for victims of CIDT/P. Additionally, the Sub-Committee is empowered to provide non-monetary support to victims, including physical and mental rehabilitation, restitution, legal and social support, guarantees of non-recurrence, and measures of satisfaction, such as public apologies.⁷⁴

⁷³ SBPAC, 'Handbook in Providing Support and Remedies', 23 April 2024, available at: <file:///C:/Users/Lenovo/Downloads/%E0%B8%84%E0%B8%B9%E0%B9%88%E0%B8%A1%E0%B8%B7%E0%B8%AD%E0%B8%81%E0%B8%B2%E0%B8%A3%E0%B8%8A%E0%B9%88%E0%B8%A7%E0%B8%A2%E0%B9%80%E0%B8%AB%E0%B8%A5%E0%B8%B7%E0%B8%AD%E0%B9%80%E0%B8%A2%E0%B8%B5%E0%B8%A2%E0%B8%A7%E0%B8%A2%E0%B8%B2%E0%B8%9C%E0%B8%B9%E0%B9%89%E0%B9%84%E0%B8%94%E0%B9%89%E0%B8%A3%E0%B8%B1%E0%B8%9A%E0%B8%9C%E0%B8%A5%E0%B8%81%E0%B8%A3%E0%B8%B0%E0%B8%97%E0%B8%9A%E0%B8%AF.pdf>

⁷⁴ Draft Regulations on Assistance, Remedy, and Rehabilitation for Victims under the Prevention and Suppression of Torture and Enforced Disappearance Act

K. Admissibility of evidence (Articles 15 of the Convention against Torture, Reply to paragraph 27 of the List of Issues)

57. As previously mentioned, the provision regarding the inadmissibility of statements and other information obtained through torture, CIDT/P, or enforced disappearance as evidence in legal proceedings was removed from the final version of the Prevention and Suppression of Torture and Enforced Disappearance Act. One justification for this removal was the existence of Section 226 of the Thai Criminal Procedure Code, which excludes illegally obtained evidence, including that obtained through inducement, promise, threat, deception and other unlawful means. However, this is not an absolute prohibition, as exceptions in Sections 226/1 and 226/3 grant courts discretion to admit such evidence for “the interest of justice.”⁷⁵
58. Thus, it is left to the discretion of judges whether to admit testimonies or evidence derived from alleged torture and CIDT/P, in violation of Article 15 of the Convention against Torture. In practice, according to information obtained by the ICJ through interviews with lawyers from the southern border provinces, confessions and information derived from detainees held under Martial Law and the Emergency Decree continue to be used, alongside other evidence, to incriminate individuals. Despite assertions from lawyers that such evidence is hearsay and inadmissible due to being obtained through torture or CIDT/P, as well as concerns that the rights of interviewees were not respected during the process, the courts often note these objections but frequently disregard them, a pattern that is reflected in their judgments.
59. However, a positive development occurred with the Supreme Court's Decision No. 711/2567 (2024) concerning a “terrorism” case from the southern border provinces. The Supreme Court ruled that testimonies provided by the accused during their detention under security laws were not recorded in accordance with the Criminal Procedure Code but, rather, within a military camp, where no defence lawyers were permitted. Therefore, the court determined that these testimonies could not be admitted as evidence unless the detainees had been informed of their rights. It remains to be seen whether this precedent will be followed in future cases.

L. Reprisals (Articles 16 of the Convention against Torture, Reply to paragraphs 28-29 of the List of Issues)

60. There continue to be reports of threats and reprisals against individuals working to expose cases of alleged torture, CIDT/P and enforced disappearances. Human rights defenders are also at risk for their lives. On 25 June 2024, Roning Dolah, an anti-torture activist, who volunteered with the Duay Jai Group in support of victims of torture and CIDT/P, was murdered in his residence by two undercover hitmen, just a day before the International Day in Support of Victims of Torture.⁷⁶ Following the

⁷⁵ Available at: <https://www.icj.org/wp-content/uploads/2012/12/Thailand-Criminal-Procedure-Code-1934-2008-eng.pdf>; See also: ICJ, ‘Thailand : legal memorandum – hearsay evidence and international fair trial standards’, 2008, available at: <https://www.icj.org/resource/thailand-legal-memorandum-hearsay-evidence-and-international-fair-trial-standards/>

⁷⁶ Benar News, ‘<https://www.benarnews.org/english/news/thai/prominent-human-rights-activist-killed-thai-deep-south-06262024145234.html>’, 26 June 2024, available at: <https://www.benarnews.org/english/news/thai/prominent-human-rights-activist-killed-thai-deep-south-06262024145234.html>

incident, several CSOs raised questions about the authorities' investigation. One major concern was the number of bullet cartridges recovered. The Internal Security Operations Command (ISOC) Region 4 Forward reported that they collected eight cartridges, while family members present at the crime scene, recalled finding 28 bullet cartridges. Additionally, some of the bullets mentioned by the authorities did not match the gun model associated with the cartridges recorded by the family. Moreover, the family remains in the dark about any progress in the criminal investigation into Roning's death. Apart from the ISOC's statement, which was issued only two days after the incident and confirmed that two of these casings had previously been linked to seven security incidents in the southern border provinces between 2015 and 2019⁷⁷—suggesting possible involvement of insurgent groups—no further updates have been provided to his family or the public.

61. In recent years, many attacks on human rights defenders have also occurred online, often attributed to so-called Information Operations (IO), in which the government allegedly sponsors disinformation, harassment, and smear campaigns targeting dissenting voices. This is done by establishing social media accounts or websites that focus on posts critical of the regime, aiming to disqualify and discredit the legitimacy and reputation of human rights defenders and civil society organizations.
62. During a parliamentary debate on 25 February 2020, a member of the opposition party presented evidence accusing the military and the Thai government of sponsoring social media accounts and websites allegedly targeting prominent human rights defenders, political activists, opposition politicians and other public figures. Evidence presented included official documents from the Internal Security Operations Command (ISOC), under the Office of the Prime Minister, detailing its annual budget request. This request mentioned support for a website called pulony.blogspot.com, which regularly attacked women human rights defenders working on southern border provinces-related issues, including those supporting victims of torture and enforced disappearances, such as Angkhana Neelapaijit (wife of Somchai Neelapaijit and former National Human Rights Commissioner of Thailand), Pornpen Khongkachonkiet (Director of Cross-Cultural Foundation), and Anchana Heemmina (Director of Duay Jai Group).⁷⁸
63. Following these revelations, Angkhana Neelapaijit and Anchana Heemmina filed a civil lawsuit against the Office of the Prime Minister and the Royal Thai Army in November 2020 at the Bangkok Civil Court, seeking damages under the 1996 Act on the Liability for Wrongful Acts of Officials. Disappointingly, on 16 February 2023, the Civil Court dismissed the lawsuit, although it confirmed that the website had spread misinformation that harmed the plaintiffs. The court justified the dismissal by stating that there was insufficient evidence to directly link the defendants to the website that disseminated the false information. An appeal against the first instance dismissal is pending before the Appeal Court.⁷⁹

⁷⁷ISOC, 'ISOC Region 4, HQ Clarifies Progress of Bullet Casing Test Results,' 27 June 2024, available at: <https://www.southpeace.go.th/?p=107197>

⁷⁸ UCL, 'Joint Statement: State-backed Online Information Operation Against Human Rights Defenders Must Be Fully Investigated and Immediately Halted,' 3 March 2020, available at: <http://ucl.or.th/?p=3077>

⁷⁹ iLaw, 'Thai Court dismissed Landmark Lawsuit between 2 HRDs and Office of the Prime Minister for the Lack of Evidences,' 21 February 2023, available at: <https://www.facebook.com/photo/?fbid=216539564269509&set=a.182639197659546>

64. Regarding the case raised in the Committee's List of Issues, involving Manager Online, a news website that reported the alleged torture of a suspect at two military camps, ISOC Region 4 (which runs the interrogation center at these camps) filed a criminal defamation lawsuit against the website. On 12 November 2018, the public prosecutor indicted two executives of Manager Online, who maintained that they were simply performing their duties as journalists and that their articles were based on victims' accounts.⁸⁰ However, as noted in the Second Periodic Report, on 26 March 2019, the claimants later withdrew their defamation complaints after the editor of Manager Online issued a "public apology" for distributing "false information" regarding the alleged torture or CIDT/P in the military camps.

65. As for another case referred to in the List of Issues involving Isma-ae Tae, the founder of the Patani Human Rights Organization (HAP), ISOC Region 4 lodged a complaint with the police after he publicly described during a TV program being tortured and ill-treated by Thai soldiers while he was a student in Yala province.⁸¹ As of the date of this submission, Isma-ae has not received any updates from the police regarding the case, indicating that the investigation may not have commenced.

Recommendations

66. In light of the concerns outlined in this submission, and in line with its obligations under the Convention against Torture, the ICJ recommends that the Royal Thai Government take the following actions:

- a. Amend the Prevention and Suppression of Torture and Enforced Disappearance Act to align it with the Convention against Torture's provisions and the Committee's relevant General Comments, particularly regarding the purposes identified in the definition of torture, the statute of limitations, the scope of command or superior responsibility, and ensuring the participation of victims and their families in the Committee on the Prevention and Suppression of Torture and Enforced Disappearance;
- b. Disseminate clear guidelines to all stakeholders, not just to law enforcement, on the application of preventive measures under the Act. Such measures include continuous audio and video recording throughout arrest and detention whenever people are being questioned or interrogated, immediate notification

⁸⁰ Manager Online, 'Prosecutor indicted against Online Manager after publishing news of torture in military camps', 12 November 2018, available at: <https://mgronline.com/south/detail/9610000112932> (in Thai)

⁸¹ The defamation suits were lodged notwithstanding a ruling by the Supreme Administrative Court on 19 October 2016, which ordered the Royal Thai Army and the Defence Ministry to pay 305,000 Baht (USD 9,700) compensation to Isma-ae Tae, after the Court had found that he had been "physically assaulted" during detention, and had been illegally detained for nine days – exceeding the limit of seven days permitted under Martial Law Act. For more information: see, ICJ and TLHR, 'Additional Information to UN Committee against Torture in View of its Adoption of a List of Issues Prior to Reporting on the Kingdom of Thailand in Advance of the Submission of its Second Periodic Report under Article 19 of the Convention,' 30 April 2018, available at: <https://www.icj.org/wp-content/uploads/2018/05/THAILAND-CAT-additional-info-Advocacy-2018-ENG.pdf>.

of arrest to the public prosecutor and district chief, and clear channels for reporting non-compliance, along with the penalties for violations;

- c. Repeal all NCPO Orders, including Orders No. 3/2558 and 13/2559, which grant broad investigatory, arrest, and detention powers for up to seven days without judicial oversight, and include provisions that may allow for immunity for acts of torture, CIDT/P, and enforced disappearance;
- d. Repeal or heavily amend the Martial Law and Emergency Decree to remove provisions that allow for administrative detention of up to 37 days in facilities not officially recognized as places of detention, and/or for detention without adequate judicial oversight or respect for detainees' fundamental legal safeguards, as well as provisions that may allow for immunity for acts of torture, CIDT/P, and enforced disappearance, with the ultimate aim of lifting Martial Law and the Emergency Decree from all areas where they are in effect;
- e. Ensure that prompt, thorough, effective, impartial, independent, and transparent investigations are conducted when authorities know or should have known about acts of torture and/or CIDT/P. Additionally, ensure the prosecution of perpetrators in a manner that respects fair trial standards, with sanctions that are effective, proportionate, and dissuasive, without undue delay, and without any mitigation of sanctions merely because those sections happen to be State officials. Quite the contrary, in certain circumstances the fact that State officials committed certain crimes should count as aggravating circumstances. This includes cases such as those of Bilal Mohammed and Attasith Nussa, along with other cases currently under investigation;
- f. Immediately transfer civilians from military detention facilities to civilian facilities, including Bilal Mohammed, Yusuf Mieraili, and others detained under special laws in the southern border provinces;
- g. Make a declaration under Articles 31 and 32 of the ICPPED, allowing the UN Committee on Enforced Disappearances to receive individual communications and communications from other States alleging violations of the Convention;
- h. Ensure that prompt, thorough, effective, impartial, independent, and transparent investigations are conducted to reveal the truth to the families of victims of enforced disappearance regarding the fate and whereabouts of their loved ones, and the circumstances of the offences committed and the identity of the perpetrators. Recognizing the continuous nature of enforced disappearance, consider prosecuting the perpetrators based on the Prevention and Suppression of Torture and Enforced Disappearance Act, including in unresolved cases transmitted by the WGIED, including those of Somchai Neelapaijit, Pholachi ("Billy") Rakcharoen, Den Kamlae, the nine self-exiled Thai political activists disappeared between 2017 and 2021 in Lao PDR, Cambodia, and Vietnam, as well as those refugees who disappeared in Thailand;
- i. Ensure that Section 13 of the Prevention and Suppression of Torture and Enforced Disappearance Act, which incorporates the *non-refoulement* principle is respected and clearly communicated to law enforcement and judicial authorities. This includes clarifying the absolute nature of this principle, including in relation to extradition laws and procedures;

- j. Conduct prompt, thorough, effective, impartial, independent, and transparent investigations into deaths in custody, ensuring that autopsies comply with international standards and are followed by court inquests into the deaths to reveal their causes and circumstances. This process should seek to elucidate the truth as much as possible for the families and society at large. It should also focus on recommending measures to prevent similar incidents in the future. Additionally, alleged perpetrators must be brought to justice in fair proceedings and penalties should reflect the gravity of their criminal conduct. This includes cases related to the Tak Bai demonstrators, Abdulloh Esomuso, and Netiporn 'Bung' Sanesangkhom;
- k. Ensure that the Prevention and Suppression of Torture and Enforced Disappearance Committee and its Sub-Committee carry out their tasks independently and impartially. Reconsider the composition of the Committee and Sub-Committee to guarantee their independence and meaningful participation of victims and their families, and ensure their regular engagement, which could greatly enhance their effectiveness in fulfilling these vital mandates;
- l. Ensure the long-term protection and assistance of witnesses, victims, and their families, including maintaining witness protection programs where justice has not yet been served;
- m. Ensure that specific redress and compensation measures are available for victims of torture, CIDT/P, and enforced disappearance throughout the country, and that these measures are prompt, effective, and accessible to all. In cases of compensation, where the government can only provide "initial monetary support," adequate legal assistance should be provided to help victims seek full compensation from perpetrators and State agencies through both judicial and non-judicial means;
- n. Incorporate provisions on the inadmissibility of statements and information obtained through torture, CIDT/P, or enforced disappearance into the Prevention and Suppression of Torture and Enforced Disappearance Act;
- o. Ensure that confessions and information obtained from detainees held in circumstances that fail to respect legal safeguards — particularly detention under the Martial Law and the Emergency Decree, which are arbitrary in nature — are not admissible in court;
- p. Take measures to address online disinformation campaigns targeting human rights defenders working to combat torture, CIDT/P, and enforced disappearance;
- q. Conduct a prompt, thorough, impartial, independent, effective and transparent investigation into the killing of the anti-torture activist Roning Dolah; and
- r. End the abuse of the judicial process through lawsuits aimed at curtailing or deterring public criticism of authorities, particularly regarding allegations of torture, CIDT/P, and enforced disappearance.