

THAILAND

JOINT SUBMISSION TO THE UNITED NATIONS COMMITTEE AGAINST TORTURE

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Founded in 2002, the **Cross Cultural Foundation (CrCF)** is a Thailand-based nonprofit foundation working to ensure equal access to justice for all people in Thailand by monitoring and investigating human rights abuses; advocating for and promoting a vision of justice that empowers people to understand and realize their rights; and the direct protection of human rights through legal strategies. Within this integrated purview, CrCF has focused on initiatives that enhance access to justice for Thai citizens as well as indigenous and minority populations, including migrant workers, refugees, stateless persons, and victims of conflict; the prevention of torture of human rights defenders; and providing free legal aid and tangible assistance to vulnerable groups in Thailand's southern border provinces. We work closely with international human rights networks to empower and include indigenous and minority populations.

The **World Organisation Against Torture (OMCT)** works with 200 member organisations to end torture and ill-treatment, assist victims, and protect human rights defenders at risk wherever they are. Together, we make up the largest global group actively standing up to torture in over 90 countries. We work to protect the most vulnerable members of our societies, including women, children, indigenous peoples, migrants and other marginalized communities. To achieve this, we advocate with governments to change or implement their laws and policies, we help victims seek justice and strive to hold perpetrators to account. Because torture can never be tolerated, and human dignity is not negotiable.

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Acronyms

Centre for the Prevention and Suppression of Torture and Enforced Disappearance (Anti-Torture Centre)

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)

Cross Cultural Foundation (CrCF)

Department of Special Investigation (DSI)

List of Issues Prior to Reporting (LOIPR)

National Committee on the Prevention and Suppression of Torture and Enforced Disappearance (National Committee)

National Human Rights Commission of Thailand (NHRCT)

Office of Attorney General (OAG)

Prevention and Suppression of Torture and Enforced Disappearance Act B.E. 2565 (2022) (Anti-Torture and Enforced Disappearance Act)

Rights and Liberties Protection Department of the Ministry of Justice (RLPD-MOJ)

World Organisation Against Torture (OMCT)

INTRODUCTION

In January 2021, Thailand submitted its second periodic report (CAT/C/THA/2) to the Committee against Torture (CAT) in compliance with Article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). This alternative report, prepared by the Cross Cultural Foundation (CrCF) and the World Organisation Against Torture (OMCT), underscores persistent challenges related to torture, cruel, inhuman, or degrading treatment, and enforced disappearances within the country. The drafting process was guided by an inclusive, participatory, and collaborative methodology, incorporating consultations both within the participating organisations and with external stakeholders, alongside three national consultations held in Narathiwat, Bangkok, and Chiang Mai.¹

Despite the enactment of the Prevention and Suppression of Torture and Enforced Disappearance Act B.E. 2565 (2022) (Anti-Torture and Enforce Disappearance Act), Thailand continues to grapple with significant challenges, including a pervasive culture of impunity within law enforcement and military institutions, as well as critical gaps in legal protections for victims. This report provides an analysis of the current legal framework, including shortcomings of the Anti-torture and Enforce Disappearance, and identifies systemic failures that obstruct access to justice for victims of torture and enforced disappearances.

Significant gaps in safeguards and accountability persist within Thailand's legal system, allowing practices that undermine protections against torture. Laws facilitating extended detention without judicial oversight further exacerbate the risks of torture and impunity. Torture and ill-treatment continue to be widespread in police stations, military camps, and detention facilities, often perpetrated by state officials who act with impunity. Methods such as severe beatings, electric shocks, waterboarding, and psychological abuse are commonly reported, often as part of coercive interrogation tactics. The use of restraints during court hearings in Thailand is also concerning and may amount to degrading treatment in violation of both domestic and international human rights standards. Systemic deficiencies within the military's disciplinary framework have resulted in significant human rights abuses against conscripts, including incidents of torture and ill-treatment that have resulted in severe injuries and death. Furthermore, Thailand has a troubling record of enforced disappearances, particularly involving human rights defenders and political dissidents. Instances of transnational repression highlight the lack of accountability and ineffective cross-border cooperation mechanisms.

The complaints process remains inadequate with many allegations dismissed owing to inadequate investigations and a pervasive lack of understanding among relevant authorities regarding the

¹ The three workshops were held in Narathiwat on 22-23 June 2024, Bangkok on 13-14 July 2024 and Chiang Mai on 6-7 August 2024

definition of torture. Access to reparations for victims is obstructed by bureaucratic hurdles and insufficient documentation. Additionally, human rights defenders, journalists, and the families of victims face escalating threats, including physical violence and judicial harassment. Legal mechanisms are often weaponized to suppress dissent, creating a perilous environment for individuals seeking justice.

In light of these findings, the CrCF and OMCT urgently call on the CAT to urge the Government of Thailand to take decisive action to address these issues. They recommend aligning the Anti-Torture and Enforced Disappearance Act with international standards, enhancing legal safeguards to mitigate the risk of torture and enforced disappearances, and ensuring independent and comprehensive investigations into allegations of torture and enforced disappearances. Furthermore, they emphasize the critical need for timely access to legal redress and reparations for victims and their families, as well as the provision of stronger protections for human rights defenders and civil society actors facing increasing risks.

DEFINITION AND CRIMINALIZATION OF TORTURE

With reference to the Committee's LOIPR para. 2, Thailand's long-awaited Anti-Torture and Enforced Disappearance Act came into effect on 22 February 2023, more than 15 years after the country became a signatory to the UNCAT. This landmark legislation is the result of relentless advocacy efforts by victims, their families, civil society organisations, lawmakers, and other stakeholders, all of whom have sought to halt serious human rights abuses and provide remedies to those affected.

The law criminalizes torture (Section 5), other cruel, inhuman, or degrading treatment or punishment (Section 6), and enforced disappearance (Section 7) when committed by public officials. It further introduces safeguards such as mandatory body cameras during arrests to prevent torture and abuse of authority, and mandates that officials immediately notify other relevant bodies of an arrest (Section 22). Moreover, it requires the production of comprehensive arrest and detention reports (Section 23), which must be made accessible to the detainee's family and legal representatives (Section 24). These provisions aim to enhance transparency, accountability, and protection for detainees.²

² Prevention and Suppression of Torture and Enforced Disappearance Act 2022 (Unofficial translation by the Cross Cultural Foundation), 3 November 2022, <https://crfthailand.org/en/2022/11/03/prevention-and-suppression-of-torture-and-enforced-disappearance-act/>

Significantly, the law shifts jurisdiction for cases involving these offenses to the Criminal Court for Corruption and Misconduct Cases (Section 34), even in instances where military personnel are implicated. Previously, military officials were tried in Military Court, often raising concerns about impartiality and independence. By transferring such cases to civilian courts, the law seeks to ensure fairer judicial proceedings. The legislation also includes obligations for the state to provide adequate support and rehabilitation to victims of torture and enforced disappearance.

Although the Anti-Torture and Enforced Disappearance Act officially came into effect on the above-mentioned date, the administration of former Prime Minister Prayuth Chan-o-cha, attempted to delay the implementation of key-provisions, specifically Articles 22 to 25 of the Act, by citing insufficient financial resources and inadequate capacity to document arrest procedures in compliance with the new law.³ On 18 May 2023, the Constitutional Court of Thailand ruled that the decree delaying the enactment of these provisions was unconstitutional.⁴ As a result, there is no longer any legal basis for postponing the full enforcement of the Act, and all provisions are currently in effect. Articles 22 to 25, in particular, have had a significant impact on reforming police arrest procedures. These provisions have prompted the Ministry of Justice to issue several new guidelines and regulations, such as the "Guidelines on Video and Audio Recording During Arrest, Notification of Arrest, and Recording Information about Arrestees."⁵ These reforms aim to enhance transparency, ensure accountability in law enforcement, and safeguard the rights of individuals during arrest, thereby aligning arrest procedures with international human rights standards. However, reports indicate that these provisions are not consistently adhered to, and there remains uncertainty about whether officers who violate them will face punishment or legal consequences.

Despite the progressive nature of this legislation, numerous challenges have surfaced in its practical implementation. By the end of September 2024, the Act will have been in force for one year and eight months, during which time the Cross Cultural Foundation (CrCF) has closely monitored its application, engaged in legal actions, and continued advocacy efforts against torture, ill-treatment, and enforced disappearance. Based on these observations CrCF has identified several critical issues that undermine the law's effectiveness and full alignment with international standards.

³ The Active, เดือนบังคับใช้ พ.ร.บ.ซ้อมทรมาน—อุ้มหาย ออกไปอีก 7 เดือน Cabinet approves draft of amended emergency decree, extending deadline for only 4 sections, citing insufficient cameras; human rights organization points out that it violates the constitution, even without equipment, must strictly comply with the law, 2023, February 14 <https://theactive.net/news/law-rights-20230214/>, BBC News พ.ร.บ. อุ้มหาย ใกล้เคียงกับใช้ แต่ทำไม่ครบจางยังไม่พร้อม Anti-Torture and Enforced Disappearance Act: Cabinet Resolution Postpones Enforcement of 4 Sections Due to Failure to Purchase 171,000 Police Body Cameras. 14 February 2023, <https://www.bbc.com/thai/articles/c1eln58l341o>

⁴ Workpoint Today. (2023, May 18). ศาลรธน. มีมติ 8 ต่อ 1 พ.ร.ก.เดือนบังคับใช้พ.ร.บ.อุ้มหายฯ ไม่เป็นไปตามรัฐธรรมนูญ ไม่มีผลตั้งแต่วัน The Constitutional Court ruled 8 to 1 that the emergency decree to postpone the enforcement of the Anti-Torture and Enforced Disappearance Act was not in accordance with the Constitution and had no effect from the beginning, 18 May 2023, <https://workpointtoday.com/politic-law-4/>

⁵ RLPD-MoJ, Guidelines on Video and Audio Recording During Arrest, Notification of Arrest, and Recording Information about Arrestees, 19 May 2023, May 19

Definition of torture

Pursuant to Article 5 of the Act, torture is defined as the intentional infliction of severe physical or mental pain or suffering by a public official, carried out for one of four specific purposes:⁶

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

However, this definition does not fully align with the definition set forth by Article 1 of UNCAT. This divergence can lead to inconsistent interpretations and weaker enforcement. The Act's wording implies that these four purposes are exhaustive. However, the UNCAT, as well as the jurisprudence of the UN Committee Against Torture (CAT) and other authoritative sources, indicate that these purposes are illustrative rather than comprehensive. Consequently, the Act's narrower definition could allow acts of torture that fall outside these specified purposes to go unrecognized and unpunished, increasing the risk of impunity for perpetrators and undermining the protection of individuals against torture.

Definition of enforced disappearance

Under Article 7, a public official who detains or abducts someone, and subsequently denies or conceals their fate or whereabouts, thereby depriving the person of legal protection, shall be held accountable for enforced disappearance.

However, this provision does not fully align with the definition provided by the International Convention for the Protection of All Persons from Enforced Disappearances (ICPPED). Indeed, the ICPPED's definition does not require explicit denial by a public official, as the refusal to acknowledge the deprivation of liberty may also include silence or ambiguous responses. Additionally, the Act lacks requirements for the investigation and prosecution of those responsible for enforced disappearances when these acts are carried out by individuals or groups not authorized, supported, or acquiesced by the state. This omission undermines accountability and limits the scope for justice.

⁶ Ibid.

Role and Composition of the Committee on Prevention and Suppression of Torture and Enforced Disappearance (the National Committee)

Section 14 of the Act establishes a Committee on Prevention and Suppression of Torture and Enforced Disappearance (the National Committee), tasked with inquiring “the information and the facts pertaining to the act of torture or other cruel, inhuman, or degrading treatment or the enforce disappearance under this Act and to receive and carry out an investigation on the complaint received” (Section 20 (4)). It is also responsible for recommending improvements to laws and measures to the Council of Ministers or state agencies; formulating policies, work plans, and preventative measures; developing inclusive policies for the rehabilitation and remedy of victims to restore their physical and mental well-being; and determining financial and medical assistance conditions with the approval of the Ministry of Finance. Additionally, the Committee is tasked with preventing the incommunicado detention or short-term enforced disappearance, protecting whistleblowers, reviewing and submitting reports to legislative bodies and the public, appointing advisors or sub commissions for specific tasks, and creating rules related to the execution of the Act and associated costs (Section 19).⁷

On 23 May 2023, the Cabinet approved the Ministry of Justice's proposal⁸ to appoint members to the National Committee, chaired by the Minister of Justice. The Committee comprises 11 officials from various governmental agencies and six experts in different fields.⁹

Since its formation, the National Committee has established four sub committees: 1) the Subcommittee on Screening Torture and Enforced Disappearance Cases; 2) the Subcommittee on Remedies and Reparations; 3) the Subcommittee on the Development of Laws and Regulations, and most recently 4) the Subcommittee on Enforced Disappearance Cases in Foreign Countries which was established following National Committee order no. 6/2024 (2567) dated 7 August 2024.¹⁰ These subcommittees have issued various regulations and guidelines related to torture

⁷ Ibid.

⁸ Thaipost, กรม.เห็นชอบ ยธ. แต่งตั้งคณะกรรมการป้องกันและปราบปรามการทรมานและอุ้มหาย The Cabinet approves the Ministry of Justice's appointment of a committee to prevent and suppress torture and enforced disappearance, 23 May 2023, <https://www.thaipost.net/general-news/383721/>

⁹ Prevention and Suppression of Torture and Enforced Disappearance Act 2022 (Unofficial translation by the CrCF), 3 November 2022, Cross Cultural Foundation. <https://crcfthailand.org/en/2022/11/03/prevention-and-suppression-of-torture-and-enforced-disappearance-act>

¹⁰ The orders for the establishment of the first three Subcommittees are not publicly available. However, this information was presented by Ms. Nareeluc Pairchaiyapoom, a representative from the Rights and Liberties Protection Department of the Ministry of Justice (RLPD-MoJ) of Thailand, during a conference held in Indonesia on August 20-21, 2024. The conference, titled "Sharing Experiences of ASEAN Member States' National Framework on the Prevention of Torture: Sharing Practices, Challenges, and Lessons Learned," took place at the Episode Hotel Gading Serpong in Banten, Indonesia.

prevention, including the Guidelines on Video and Audio Recording During Arrest, Notification of Arrest, and Recording Information about Arrestees.¹¹

However, more than a year after the Anti-Torture and Enforced Disappearance Act came into effect on 22 February 2023, the National Committee, tasked with overseeing its implementation, has met only three times, according to available information. While the subcommittees operate independently, there is a concerning lack of coordination between these bodies, leading to fragmented efforts. Additionally, public access to information regarding the Committee's activities is severely limited. Neither civil society organisations nor victim communities have been formally notified of the subcommittees' establishment. Information about progress, timelines, action plan, and decision-making processes remains scarce, limiting public oversight.

Of particular concern is the exclusion of representatives from victims or their families from the Committee or its subcommittees. This undermines the principle of victim-centered justice, as those directly impacted by torture and enforced disappearance are not involved in the decision-making processes that shape their access to justice and reparations.

Another significant issue is the inability of the Rights and Liberties Protection Department of the Ministry of Justice (RLPD-MOJ), which serves as the National Committee's Secretariat, to effectively coordinate with various investigative bodies such as the Department of Special Investigation (DSI), the Office of the Attorney General (OAG), the Department of Provincial Administration (DOPA), and the police. This lack of coordination has fostered a culture of "finger-pointing", where each agency deflects responsibility onto others when handling allegations of torture and enforced disappearances. These institutional inefficiencies result in prolonged delays in investigations and severely undermine the Committee's ability to address serious human rights violations in a timely and effective manner.

The RLPD-MOJ's failure to promote a unified and collaborative approach among these agencies highlights a deeper, systemic issue that hinders Thailand's efforts to ensure justice for victims. Moreover, this lack of coordination and transparency erodes public confidence in the justice system, raising serious concerns about the operational effectiveness of the National Committee and its ability to protect the rights of those affected by torture and enforced disappearance.

Inadmissibility as evidence of statements obtained by torture, ill-treatment or enforced disappearance

The Anti-Torture and Enforced Disappearance Act fails to explicitly prohibit the admissibility as evidence of statements or other information obtained by torture or other cruel, inhuman or

¹¹ RLPD-MoJ, Guidelines on Video and Audio Recording During Arrest, Notification of Arrest, and Recording Information about Arrestees, 19 May 2023

degrading treatment or punishment. While section 226 of the Thai Criminal Procedure Code excludes evidence obtained by illegal means, it does not categorically bar evidence from torture. Sections 226/1 and 226/2 of the Criminal Procedure Code provide exceptions, allowing the admission of confessions or statements obtained under duress if deemed “for the benefit of justice”. These broad and ambiguous exceptions create significant legal loopholes, thereby undermining the absolute prohibition on the use of torture-derived evidence. This failure to unequivocally exclude such evidence contravenes established international legal standards, which require an absolute ban on the admissibility of any information obtained through torture.

Statute of limitations

In its LOIPR’s Articles 1 and 4, para. 2, the CAT requested updated information “on the measures taken to make torture a separate and specific crime in national legislation, with a definition of torture that is consistent with Article 1 of the Convention, includes appropriate penalties and is not subject to any statute of limitations.”

Regrettably, the Anti-Torture and Enforce Disappearance Act does not fully meet these international standards. While the Act does criminalize torture, it fails to exempt it from statutes of limitations. The statute of limitations for torture-related offenses aligns with Section 95 of the Criminal Code, which prescribes limitation periods ranging from one to 20 years, depending on the severity of the punishment. This stands in stark contrast to the CAT’s General Comment No. 3 and various concluding observations,¹² which firmly call for the complete exclusion of torture from any statute of limitations due to the gravity and long-lasting impact of such crimes.

Challenges in the implementation of the Anti-Torture and Enforced Disappearance Act

Despite the criminalization of torture under Thailand’s Anti-Torture and Enforced Disappearance Act, significant challenges persist in its implementation. These challenges largely stem from a persistent lack of understanding among law enforcement, judicial officials and a legacy of a system where responsibility for handling complaints related to human rights violations - such as torture - was concentrated in a few public bodies, including the National Human Rights Commission of Thailand (NHRCT) and the Rights and Liberties Protection Department of the Ministry of Justice (RLPD-MOJ).

¹² Para. 40 (CAT/C/GC/3): “40. On account of the continuous nature of the effects of torture, statutes of limitations should not be applicable as these deprive victims of the redress, compensation, and rehabilitation due to them.”; and para. 9 (CAT/C/THA/CO/1): “the Committee is concerned that the draft amendment to the Penal Code with regard to torture [...] and (e) does not explicitly prohibit the application of a statute of limitations. The Committee appreciates the delegation’s reassurance that the draft can still be revised.”

Although numerous trainings sessions have been organised for state agencies¹³ - including the police, military and prosecutors - these efforts have not resulted in a consistent interpretation or application of key legal definitions, particularly with respect to torture, ill-treatment, and enforced disappearance. Law enforcement officials, along with investigative bodies such as the Department of Special Investigation (DSI) and the Anti-Torture Centre, continue to apply a narrow interpretation of torture. For instance, a torture complaint filed by CrCF to the DSI was dismissed on the grounds that the alleged actions did not aim to “extract a confession” or result in “serious or severe injuries”.¹⁴ This rigid interpretation disregards other forms of abuse that fall within the broader definition of torture under international law. Similarly, allegations of enforced disappearance are often dismissed due to insufficient evidence or an inability to identify state actors as perpetrators, reflecting a fundamental misunderstanding of enforced disappearance, which is specifically designed to erase all traces of the victim’s existence.

The absence of clear criteria for defining and prosecuting these crimes has led to the dismissal of numerous cases, leaving victims without recourse. To the authors’ best knowledge, no dedicated training or awareness-raising sessions have been conducted for judges on the proper implementation of the Anti-Torture and Enforced Disappearance Act, further compounding these issues.

In addition to challenges related to interpretation and application, the law’s implementation faces several systemic issues. A key obstacle is the absence of a clear enforcement mechanism, resulting in insufficient oversight and inconsistent application across security forces and government institutions. Oversight bodies responsible for monitoring compliance have failed to enforce the law effectively, perpetuating a culture of impunity, particularly within the police and military. This lack of accountability is exacerbated by the limited involvement of civil society in oversight processes, which restricts the external scrutiny necessary to ensure proper implementation. Additionally, persistent gaps in the dissemination of knowledge and deeply entrenched practices within these institutions continue to undermine the law’s impact. As a result, victims of torture and enforced disappearance remain vulnerable to ongoing rights violations, with little hope for justice or redress.

¹³ Press release no. 671/2566: RLPD provides training on the Anti-Torture Act to the ISOC, Region 4 Forward Command, 27 April 2023, retrieved September 11, 2024 from <https://www.moj.go.th/view/83600>; Press release no. 828/2566: RLPD provides training on the Prevention and Suppression of Torture and Enforced Disappearance Act B.E. 2565 to provincial justice office officials, 14 June 2023, retrieved September 11, 2024 from <https://www.moj.go.th/view/85164>; Press release no. 675/2566: RLPD raises understanding of the “Prevention and Suppression of Torture and Enforced Disappearance Act B.E. 2565” for Customs Department officials, 28 August 2023, retrieved September 11, 2024 from <https://www.moj.go.th/view/83644>; RLPD raises awareness of the “Prevention and Suppression of Torture and Enforced Disappearance Act B.E. 2565” With the Office of the Narcotics Control Board, 14 November 2023, retrieved September 11, 2024 from <https://www.facebook.com/RLPD.PR.FANPAGE>; Anti-Torture Centre (OAG) conducted at least 6 trainings on Anti-Torture Act across the country. (n.d.). สำนักงานในสังกัดสำนักงานอัยการสูงสุด, retrieved September 11, 2024 from <https://www3.ago.go.th/center/ptddoi/>

¹⁴ Also see Cross Cultural Foundation, Attasith Nussa, 5 September 2022, <https://crfthailand.org/case-library/attasit-nussa/>

Recommendations

- Amend the Anti-Torture and Enforced Disappearance Act to ensure that the definitions of torture and enforced disappearance align with international standards and exempt these offenses from any statute of limitations.
- Restructure the composition of the National Committee on Prevention and Suppression of Torture and Enforced Disappearance to include representatives from civil society and victims' organisations, ensuring that the voices of those directly affected by torture and enforced disappearance are heard. The Committee should also increase its frequency of meetings to enhance coordination among its subcommittees and publicize its findings and recommendations to strengthen public trust and oversight.
- Fully and promptly implement the Anti-torture and Enforced disappearance Act, including by developing and implementing comprehensive training programs for law enforcement officials and the judiciary on the Act, focusing on international standards, definitions, and procedural requirements.
- Enhance the capacity of the RLPD-MOJ and other relevant agencies to ensure effective coordination in handling allegations of torture and enforced disappearance. This includes developing a unified approach to investigation and accountability, as well as implementing clear enforcement mechanisms to promote consistent application of the law across various actors.

DEFICIENCIES IN LEGAL SAFEGUARDS, AND BARRIERS TO ACCOUNTABILITY IN THAILAND'S LEGAL FRAMEWORK

Thailand's Anti-Torture and Enforced Disappearance Act has introduced certain improvements in arrest and detention procedures, notably in urban areas, where law enforcement agencies have implemented more rigorous record-keeping of arrests, enhancing transparency and accountability. However, these improvements are inconsistently applied, particularly in rural areas and the Southern Border Provinces (SBP), where special laws like the Martial Law Act, Emergency Decree, and Internal Security Act (ISA) remain in force.

Critical loopholes, such as the already mentioned Section 226/1 of the Criminal Procedure Code, undermine safeguards against torture by allowing evidence obtained through unlawful means to

be admitted under certain conditions, thereby weakening protections against torture. Similarly, laws like the Penitentiary Act, the Immigration Act, the Alien Workers Act, and the Narcotics Prevention and Suppression Act grant broad discretionary powers to officials, often leading to detention abuses without proper accountability.

In the Southern Border Provinces, the special laws permit extended detentions with minimal oversight, increasing the risk of torture and ill-treatment. Provisions granting immunity to state officials, particularly under the Emergency Decree and Martial Law Act, perpetuate a culture of impunity, leaving victims without recourse and undermining public confidence in the justice system. These legislative loopholes systematically weaken legal safeguards and permit ongoing violations of human rights.

Section 226/1 of the Criminal Procedure Code

The right not to be threatened or deceived into making a confession is guaranteed by Section 135 of the Criminal Procedure Code,¹⁵ which states that “the inquiry official shall be prohibited to make or to be made any act as deception or threat or promise to the alleged offender for inducing such person to make any particular statement in the charge against him”. In addition, the Thai law stipulates the exclusion of evidence obtained by improper means in Section 226 of the Criminal Procedure Code: “An object, a document or an eyewitness likely to prove the defendant guilty or innocent can be considered as evidence, but this evidence must not be obtained by means of persuasion, promise, threat, deceit or other wrongful methods.” However, the 2008 amendment¹⁶ introducing sub-section Section 226/1 allows for exceptions, stating that the court must exclude evidence that is legitimately produced but is obtained unlawfully or through information or tips that are improperly acquired, unless the benefits of admitting such evidence outweigh the disadvantages arising from the compromised standards of the criminal justice system or fundamental civil liberties. The amendment also states that the consideration of the circumstance of the case must be considered when examining such evidence.

The Penitentiary Act

The Penitentiary Act B.E.2560 (2017) contains provisions that significantly weaken legal safeguards for individuals deprived of liberty, fostering impunity among state officials. Sections 17, 28 and 30 provide broad immunity to prison officers, exempting them from imprisonment or other criminal and civil penalties if their actions are deemed to be in good faith, proportionate, non-discriminatory, and necessary. In its State report, Thailand asserted that “an act of torture or ill-treatment under UNCAT thus does not satisfy these conditions, and an official who commits

¹⁵ Thai Criminal Procedure Code (translations), retrieved 30 September 2024 from <https://www.samuiforsale.com/law-texts/thai-criminal-procedure-code.html>

¹⁶ Section 11, Criminal Procedure Code Amendment Act (No. 28), B.E. 2551 (2008)

such act will not be exempt from liability”.¹⁷ However, in practice the legal framework creates a significant loophole that allows correctional officers to engage in torture or ill-treatment with minimal risk of accountability. The criteria for invoking immunity are vaguely defined, making it exceedingly difficult to hold officials accountable for such abuses. Given the inherent challenges in substantiating claims of abuses in detention settings, this legal ambiguity further compounds the obstacles to securing justice for victims of human rights violations, thereby perpetuating a culture of impunity within correctional facilities.

Furthermore, Section 29 of the Act grants prison officers the authority to inspect and intercept prisoners' correspondence and communications to maintain national security, public order, or morality. While complaints and legal correspondence between prisoners and their lawyers is theoretically exempt from such inspection, in practice, this provision is often circumvented. Political prisoners are especially vulnerable to this infringement, which undermines the confidentiality of attorney-client communications and limits access to effective legal representation. The absence of private rooms for attorney-client meetings further exacerbates these issues. Many facilities do not provide secure spaces where prisoners and their lawyers can confidentially discuss case details. This infringement on confidentiality undermines the fairness of the judicial process and limits prisoners' capacity to fully exercise their rights.¹⁸ Political prisoners, in particular, encounter heightened risks that their grievances and legal strategies may be intercepted, thereby deterring them from filing complaints or seeking legal redress.

Challenges for Foreign Prisoners

Foreign prisoners encounter additional barriers under the Penitentiary Act, especially with respect to the translation and screening of correspondence and legal documents. The extradition case of Mr. [Y Quynh Bdap](#) exemplifies these complications. During the initial extradition hearing on 15 July 2024, his lawyers requested an adjournment due to significant delays in receiving essential case documents that required translation into a language comprehensible to Mr. Bdap. Additionally, restrictive visiting hours at the Bangkok Remand Prison hindered adequate case preparation. Mr. Bdap received the pertinent documents only five days before the hearing, as prison officials are required to review foreign-language materials before they are made available to inmates. As a newly incarcerated individual, Mr. Bdap's legal team faced additional constraints, being limited to only 20-minute sessions per day to work on his defense.

The translation process can take several days, which results in critical documents not reaching the defendant in a timely manner. Such delays can severely impede the prisoner's ability to prepare an adequate defense, especially in time-sensitive cases. These procedural obstacles raise serious

¹⁷ Second periodic report submitted by Thailand under article 19 of the Convention pursuant to simplified reporting procedure, due in 2018 (CAT/C/THA/2), 21 December 2021, para. 16

¹⁸ Prachatai, เมื่อจดหมายคือสิ่งจิตใจผู้ต้องขัง แก่ขาด “ปากกา” ก็เหมือนถูกตัดจากโลกแต่เงื่อนงำในคุกยังเพิ่มอุปสรรค When letters are the cure for prisoners, lacking a “pen” is like being cut off from the world, but prison conditions still add obstacles, 3 September 2024, <https://prachatai.com/journal/2024/09/110558>

concerns about the fairness and efficiency of the legal process for foreign defendants, exacerbating the difficulties they encounter due to language barriers and stringent screening protocols.

The Narcotics Prevention and Suppression Act, B.E. 2519 (1976)

Section 15 of the Narcotics Prevention and Suppressions Act grants members of the secretariat, deputy secretary-general, and officials vested with the authority by the Narcotics Control Board the same investigative powers as those specified under the Criminal Procedure Code. This provision authorizes the detention of individuals arrested under Section 14(3) for a period of up to three days prior to their transfer to investigators operating under the Criminal Procedure Code. Notably, this three-day detention period is not accounted for within the 48-hour custody limit prescribed by the Criminal Procedure Code, thereby permitting suspects of drug-related crimes to be held for up to five days before appearing in front of the court.

This legislative framework enables officials to detain individuals, particularly those arrested on drug-related charges, in environments often devoid of adequate oversight. During this detention period, individuals are frequently held incommunicado and may be placed in unofficial or non-standard detention facilities, which significantly heightens the risk of torture and ill-treatment.

The Immigration Act, B.E. 2522 (1979)

The Immigration Act grants police officers and immigration officials extensive discretionary powers to detain foreign nationals, with no clearly defined maximum length for administrative detention. This creates a significant loophole, allowing individuals to be held indefinitely without a specific legal timeframe for their release. Additionally, the Act criminalizes unauthorized stay, with penalties of up to two years of imprisonment. However, the oversight mechanisms in place for administrative detainees are inadequate, as the Department of Corrections, which is responsible for monitoring prison and detention conditions, does not extend its mandate to administrative detention facilities.

The Immigration Police Bureau of the Royal Thai Police oversees approximately 15 dedicated immigration detention centres (IDCs) across Thailand's land borders and along the Andaman Sea and Gulf of Thailand. These centers, governed by the Royal Thai Police, are exempt from many regulations promulgated by the Correctional Department under the Ministry of Justice that apply to conventional prisons. This exemption results in heightened risks of corruption, a lack of transparency, inconsistencies in procedural practices, and poor detention conditions. Furthermore,

the requirement that individuals being deported bear their own deportation costs adds an additional layer of burden, exacerbating their vulnerability and lack of recourse.¹⁹

The Alien Working Act, B.E. 2551 (2008)

Section 51 of the Alien Working Act stipulates that any migrant working without a permit shall be liable to imprisonment of up to five years, fines ranging from 2,000 to 100,000 THB, or both. Should a migrant accused of such an offense agree to leave Thailand within a specified period - mandated to be within thirty days - the inquiry officials may opt to impose a fine and proceed with the migrant's deportation. While the Act delineates a clear framework for offenses and penalties, it lacks provisions aimed at safeguarding the legal rights of individuals, particularly those confined within the Immigration Office's detention system, where oversight is challenging, and individuals do not have access to legal support.

Special Laws

The application of special laws such as the Martial Law Act, the Emergency Decree on Public Administration in Emergency Situations, and the Internal Security Act (ISA) in Thailand's Southern Border Provinces, significantly expand the state's powers while simultaneously eroding legal safeguards, creating conditions conducive to arbitrary detention, torture and enforced disappearance.

The **Martial Law Act of 2004** grants security forces sweeping powers, including the ability to detain individuals without a warrant for up to seven days without judicial oversight. This lack of transparency during this period deprives detainees of fundamental legal rights, including access to legal counsel, and prevents them from challenging the legality of their detention. In such circumstances, the risk of incommunicado detention, torture, and ill-treatments is considerably heightened due to the absence of external scrutiny and legal representation.

The **Emergency Decree of 2005** allows for even longer detention periods. Detainees can be held without charge for up to 30 days. When combined with the Martial Law Act, individuals can be deprived of liberty for up to 37 days without facing formal charges or being brought before a court. During this time, detainees are often confined to military camps or other non-civilian detention facilities, where the risk of ill-treatment is heightened due to a lack of oversight and accountability. These facilities, isolated from the regular criminal justice system, expose detainees to harsh conditions, while prolonged detentions exacerbate their vulnerability to coercive interrogation and physical abuse.

¹⁹ Global Detention Project, 2016, "Thailand Immigration Detention Profile".
<https://www.globaldetentionproject.org/countries/asia-pacific/thailand#country-report>

The **Internal Security Act (ISA) of 2008** compounds these issues by allowing authorities to detain individuals for up to seven days without a warrant if they are deemed to pose a security threat. Like the Martial Law Act and the Emergency Decree, the ISA bypasses judicial oversight, leaving detainees in a legal limbo where they have limited recourse to challenge the legality of their detention or access to necessary legal protections. The ISA also permits broad surveillance and movement restrictions, further infringing on the legal protections afforded to individuals suspected of insurgent activities.

Arrest Procedures and Incommunicado Detention

Arrests conducted under the special laws in the Southern Border Provinces often lack transparency or adherence to established legal protocols. Security forces frequently fail to disclose critical information, such as the identity of the arresting officers or the legal grounds for the arrest, leaving individuals unable to challenge their detention effectively, thereby fostering an environment conducive to incommunicado detention

Incommunicado detention, where individuals are denied contact with the outside world, including family members and legal counsel, is a significant risk factor for torture and ill-treatment. Reports from former detainees in military camps indicate the frequent use of coercive interrogation techniques aimed at extracting confessions, facilitated by the absence of legal safeguards. Even children are not immune from these practices. Children suspected of involvement in insurgent activities can be detained under the Martial Law and the Emergency Decree without being charged. Although guidelines²⁰ mandate that children under 15 are not to be detained past sunset and that their parents or guardians should be notified, concerns remain. Children between the ages of 15 and 18 are often interrogated by multidisciplinary teams composed of the investigator, prosecutor, lawyer (legal advisor), psychologist or social worker, and are placed in separate investigation rooms, away from adult detainees, to ensure a distinction in the handling of juvenile cases. However, the multidisciplinary team serving in the Southern Border Provinces is composed of personnel from the Royal Thai Police Department Operation Center Forward Command Post, which includes an internal hospital and psychiatrists. This composition raises concern about the independence and impartiality of the interrogation team.²¹

²⁰ “Guidelines on the treatment of children suspects of the Internal Security Operations Command, Region 4, Forward Section” (unavailable in open source) see P.vi in Asst. Prof. Dr. Duanghathai Buranajaroenkij. (2021). Report on the situation of children and women in the southern border provinces (p. vi). the Women and Children Coordination Center in the Southern Border Provinces.

²¹ Cross Cultural Foundation, & Duayjai Group. (2024). The Monitoring and Reporting Mechanism (MRM) on Grave Violations against Children in Situations of Armed Conflict in Thailand’s Deep South 2020-2023. <https://crcfthailand.org/2024/07/05/research-monitoring-and-reporting-mechanism-mrm-on-serious-human-rights-violations-against-children-in-armed-conflict-situations-in-southern-thailand-2020-2023/>

Lack of Judicial Oversight and Accountability

One of the most significant deficiencies in the legal framework governing the Southern Border Provinces is the absence of judicial oversight. In particular, under the Emergency Decree, authorities are not required to bring detainees before a court at any point during their detention (Section 12). This stands in stark contrast to international human rights standards, which mandate that detainees must be promptly presented before a judge. The lack of this fundamental safeguard effectively removes any meaningful check on the power of security forces, creating conditions where arbitrary detention can persist unchecked.

Impact on Victims and Their Families

The overlapping application of the Special laws create significant confusion and uncertainty for detainees and their families. In many cases, families are left in the dark about the legal grounds for their relative's detention or whereabouts. This lack of transparency causes immense distress and disorientation, leaving families unable to pursue legal remedies or provide necessary support. The psychological and emotional toll on families is severe. The prolonged and often secretive nature of detentions under these special laws inflicts deep psychological trauma, as families live in constant fear for the safety of their detained relatives while struggling to navigate a legal system that offers little transparency or recourse.

CrCF Findings: Arrest Practices and Rights Violations

In 2021, CrCF conducted a baseline study on “Risky Practices Leading to Torture and Ill-Treatment in Thailand” and documented numerous inconsistencies in arrest practices in Thailand through interviews and focus groups with former detainees. Their findings reveal that legal rights are frequently not communicated during arrests, with individuals often facing obstacles to contact lawyers or relatives, particularly when detained without a warrant. This problem is especially acute in cases involving drug-related offenses, where detainees report being coerced into cooperation or confession, sometimes under the threat of further physical harm.

Vulnerable groups, including migrants and those facing language barriers, are at particular risk of coercion. They are often coerced into signing documents they do not understand, further heightening the risk of wrongful charges and abuse. The issue of arbitrary arrests and detention is also evident in political crackdowns, such as those seen during the protests the government of Prime Minister Prayut Chan-o-cha beginning in August 2021.²² Protesters were frequently arrested

²² OMCT, Thailand: Arbitrary detention of eight pro-democracy activists. (n.d.), 12 October 2021 <https://www.omct.org/en/resources/urgent-interventions/thailand-arbitrary-detention-of-eight-pro-democracy-activists>; Ngamkham, W. Flats raided, many detained after riot policeman shot in Din Daeng. Bangkok Post, 7 October 2021, <https://www.bangkokpost.com/thailand/general/2194047/flats-raided-many-detained-after-riot-policeman-shot-in-din-daeng>

without being informed of their rights, and charges were often applied retroactively under laws like the Emergency Decree, the Public Gathering Act, and the Cleanliness Act.

Recommendations

- Amend Section 226/1 of the Criminal Procedure Code to prohibit the admissibility of evidence obtained through unlawful means, without exceptions.
- Create an independent, external monitoring body to regularly inspect detention facilities, particularly focusing on conditions of confinement and the treatment of detainees, ensuring that detainees are not subjected to torture or ill-treatment.
- Review and amend the Martial Law Act, Emergency Decree, and Internal Security Act (ISA) to limit the broad powers of security forces, particularly in allowing indefinite detention without judicial oversight. Introduce stricter legal safeguards to ensure detainees are promptly presented before a court, and repeal immunity provisions for state officials under these laws.
- Amend the Penitentiary Act to remove broad immunity provisions (Sections 17, 28, and 30) for prison officials and ensure that all cases of alleged abuse are subject to independent investigation and prosecution.
- Introduce regulations under the Penitentiary Act mandating secure, private rooms for attorney-client meetings and prohibiting the interception of legal correspondence between prisoners and their lawyers.
- Ensure that foreign prisoners have timely access to legal documents and correspondence in their native *language and* establish clear guidelines for the translation of all relevant materials within five days of detention.
- Introduce amendments to the Immigration Act to set a maximum detention period of 30 days for administrative detainees and ensure they have access to legal representation within 48 hours of detention.

ALLEGATIONS OF TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT

Torture remains pervasive in Thailand, particularly within police stations, military camps, and detention facilities where individuals are deprived of their liberty. Perpetrators are frequently members of the Royal Thai Police, military personnel, and other state officials who, due to inadequate oversight and institutional accountability, act with a significant degree of impunity.

Torture is commonly employed as a method to extract confessions. Additionally, in many instances, torture serves as a means of punishment or coercion, particularly against those perceived as dissenters or threats to national security. Common practices include severe beating, electric shock, waterboarding, sexual violence, forced stress positions, exposure to extreme temperatures for prolonged periods of time. Psychological torture is also prevalent, including mock executions, threat against family members, sleep deprivation, and prolonged periods of solitary confinement to break individuals' will and coerce compliance.

The risk of torture and ill-treatment by state officials is exacerbated by a range of factors, including broader issues of systemic violence and a culture of impunity within State institutions, where the abuse of power is often tacitly tolerated and, in some cases, encouraged. Central to these violations are laws and policies that grant broad discretionary powers to security forces, as discussed above. Additionally, the attitude of state officials, particularly in regard to individuals perceived as threats to national security, play a significant role, fostering a mindset where state violence is often justified as necessary for public safety. The lack of effective complaints mechanisms, independent investigations, and institutional transparency further compounds the issue.

Institutional shortcomings within the police and military, such as the militarization of law enforcement and the insular culture of these institutions, contribute to the persistence of these abuses.²³ Police officers are under enormous pressure to meet daily arrest quotas, prioritizing numerical targets over the quality of their investigative work.²⁴ This quantitative approach prioritizes suppression over prevention, leading to systemic use of “quick and easy” methods, such as coercion or torture, to obtain confession or information. Moreover, officers face overwhelming caseloads with inadequate staffing, limiting their capacity to properly investigate cases. The issue of gender equality and the role of female officers within the police force is often overlooked, resulting in a lack of diversity in handling sensitive cases, such as those involving gender-based violence. Female officers, despite their potential to contribute to a more balanced approach, are frequently marginalized within the institution. Additionally, human rights training is infrequent, and little emphasis is placed on ensuring that officers internalize and enforce human rights principles.

In response to the Committee's LOIPR Article 2 para. 4, numerous cases of torture remain unresolved, with the majority of criminal lawsuits stagnating. This lack of progress contributes to the persistent impunity enjoyed by the perpetrators.

²³ จะดูว่าตำรวจเป็นยังไง ให้ดูถึงคนที่ตำรวจอยู่ ถอดปัญหาตำรวจไทยกับสองนายตำรวจ Police is what the society is: Interview with two former police officers on police reform. (n.d.). workpointTODAY. Retrieved October 1, 2024, from <https://workpointtoday.com/todaylive-police-09272023/>

²⁴ Baseline study: Reducing Risky Practices Leading to Torture and Ill-Treatment in Malaysia, Philippines and Thailand (2021) (Internal document), interview with two police offic 21 July 2021; Tawharanurak, C. (2022). Problems and Guideline for Solving on the Current Thai Police Organization Management Structure. Songklanakarin Law Journal, 4(2).

On 29 October 2021, Mr. **Attasith Nussa**²⁵ attended a candlelight vigil demanding justice for Warit Samnoi, a 15-year-old who was fatally shot and dead a day prior on 28 October 2021 during a rally in front of Din Daeng Police Station. Around 6:00 p.m., Attasith was violently arrested by plainclothes and uniformed police officers. A video²⁶ shows him being pinned down to the ground with his neck pressed and locked to the floor, being kicked and punched. He was handcuffed tightly, resulting in swollen wrists and taken to the station.

During interrogation, one of the police officers who had participated in the arrest *threatened* Attasith with death, claiming it could be made to look like an accident. He forced him to sit and repeatedly slammed Attasith's head against a wooden sofa, hit him with a baton, and repeatedly choked him.

After his release, Mr. Atthasit, represented by CrCF, filed a lawsuit against the Royal Thai Police, seeking compensation damages under the Act on Tortious Liability of Officials B.E. 2539 (1996). However, on 26 August 2024, the Bangkok South Civil Court dismissed the case, ruling that while medical reports confirmed injuries sustained during Mr. Attasith's arrest, there was insufficient evidence to determine that the injuries were the result of torture inflicted by police officers. Despite CCTV footages of the arrest, and the presence of eyewitnesses in the interrogation room, the court ruled that the injuries could not be attributed to police actions.

Mr. **Anan Koetkaew**²⁷ was arrested on 9 November 2015 by narcotics suppression police in Nakhon Ratchasima Province on drug-related charges. He died on 13 November 2015 from severe brain injuries sustained while in police custody. An autopsy confirmed his death was caused by severe head trauma, supporting his mother's claims of assault. Despite this, the inquest did not identify who was responsible for the assault. With legal support from the Cross-Cultural Foundation (CrCF), Anan's family filed a civil lawsuit against the Royal Thai Police. The case was settled when seven officers paid approximately 7 million THB in compensation.

In another case, on 23 October 2019, multiple police officers stormed into Mr. **Surat Puekpondon**²⁸'s home, severely beating him until he lost consciousness. According to his uncle, Mr. Kampol Sueadao, the assault was linked to a personal dispute between Mr. Surat and one of the officers involved. After the attack, he was taken to an undisclosed location and later brought

²⁵ See Annex 1 for more details. Also see <https://crcfthailand.org/case-library/attasit-nussa/>.

²⁶ Video available upon request.

²⁷ See Annex for more details.

²⁸ See CrCF, Surat Puekpondon, 8 September 2022,

<https://crcfthailand.org/%E0%B9%81%E0%B8%97%E0%B9%87%E0%B8%81/%e0%b8%aa%e0%b8%b8%e0%b8%a3%e0%b8%b1%e0%b8%8a-%e0%b9%80%e0%b8%9c%e0%b8%b7%e0%b8%ad%e0%b8%81%e0%b8%9e%e0%b8%b1%e0%b8%99%e0%b8%98%e0%b9%8c%e0%b8%94%e0%b9%88%e0%b8%ad%e0%b8%99/>

in critical conditions at Somdech Phra Sangkharat 19 Hospital. His uncle, who witnessed the assault, immediately filed a complaint to locate his nephew and prosecute the officers involved.

A fact-finding committee was established, and a criminal investigation (case number 35/2563) was initiated by the Tha Muang Police Station on 2 June 2020. However, officers accused of torturing Mr. Surat to extract a confession faced no indictments or summonses. On 18 January 2022, Mr. Surat petitioned the Office of the Attorney General (OAG), urging them to expedite the case and ensure that the officers responsible for his torture be held accountable. Despite assurances from the Attorney General's spokesperson that the case was under review by the OAG Region 7, no significant progress has been made to date.

In a third case, on 28 February 2009, 12th-grade student **Rittirong Chuenjit**²⁹ was arrested and tortured into confessing to a theft he did not commit. His family faced ongoing resistance from authorities, who consistently avoided registering their complaint. When the case finally reached the National Anti-Corruption Commission (NACC), the investigation stalled for over six years from 2009 to 2015. Despite filing complaints with various agencies 17 times, the family received no meaningful updates beyond the case being “pending”. Ultimately, the NACC ruled that there was no evidence of wrongdoing. With legal assistance from CrCF, the family filed a criminal lawsuit on June 10, 2015. Over the course of the two years and nine months trial, the court consistently encouraged the family to withdraw the lawsuit to avoid prosecution. On September 28, 2018, the Prachinburi Provincial Court found the two police officers guilty of malfeasance, but due to their professions and lack of prior convictions, their sentences were suspended for two years, effectively avoiding any criminal penalties. In a separate civil case, the Royal Thai Police was ordered to compensate the family, though the amount was later reduced on appeal.

Human Rights Violations in the context of Military Conscription

In Thailand, the practice of conscription and subsequent discipline training has raised serious concerns regarding human rights abuses, particularly incidents involving torture and ill-treatment that have resulted in severe injuries and death.³⁰ These issues have repeatedly emerged in various reports, presses, and legal proceedings,³¹ pointing to systemic deficiencies within the military's disciplinary framework and treatment of conscripts.

²⁹ See Annex for more details on this case. Also see <https://crcthailand.org/case-library/rittirong-chuenjit/>

³⁰ See Annex for more case studies.

³¹ See for example Human Rights Watch, Thailand: Army Conscript Beaten to Death, 4 April 2017, <https://www.hrw.org/news/2017/04/05/thailand-army-conscript-beaten-death>; Pinijsong Janyalikhit, Improving military discipline: A breach of convention against torture and other cruel, inhuman or degrading treatment or punishment, 2018; Thammasat University. <https://doi.org/10.14457/TU.THE.2018.1339>; Amnesty International, “We Were Just Toys to Them”: Physical, Mental And Sexual Abuse Of Conscripts In Thailand’s Military”, 2020; Cross Cultural Foundation,, กฎหมายซ้อมทรมานฯ กระทบชีวิตอันเปราะบางของทหารเกณฑ์และนักเรียนในค่าย Anti-Torture Act: The armor covers the bare lives of conscripts and cadets in the camp, (2024, February 22), <https://crcthailand.org/2024/02/22/torture-law-the-armor-covers-the-bare-lives-of-conscripts-and-students-in-the-camp/>,

The conscription process mandates young Thai men to serve in the military, where they are subjected to rigorous and often harsh discipline training, ostensibly intended to cultivate toughness and obedience. However, numerous documented cases indicate that such training frequently crosses into the realm of abuse. Conscripts have reported being subjected to corporal punishment, excessive physical exertion as punishment, and psychological abuse as part of their routine training regimen. These practices not only contravene international human rights standards but also violate Thailand's own Anti-Torture Act.

Furthermore, the military's internal justice system fails to adequately address or deter these abuses. The Military Discipline Act B.E. 2476 (1933) contains provisions that place conscripts at risk of abuse. Section 4 defines military discipline as the adherence to military customs, while Section 5 enumerates disciplinary violations, such as insubordination, improper conduct, causing disunity, laziness, dishonesty, inappropriate behavior, and substance abuse leading to loss of composure. Punishments for such offenses, outlined in between Sections 3 to 8, can range from discharge from service to demotions to more severe penalties including confinement, imprisonment or incarceration in military facilities. These punitive measures, coupled with vague definitions of disciplinary violations, foster a culture of violence in military training and fail to establish safeguards for conscripts' rights or independent oversight mechanisms.

Victims and their families seeking justice face significant obstacles, including the military's reluctance to hold perpetrators accountable, a lack of transparency in military court proceedings, and a pervasive culture of impunity that shields military personnel from prosecution in civilian courts in cases that occurred before the enactment of the Anti-Torture Act. This systemic failure to ensure accountability within the ranks of the military has been highlighted in several high-profile cases whose families have been assisted by CrCF. These incidents often only come to light due to public outcry or the steadfast efforts of human rights organizations challenging the entrenched norms of military discipline.

For example, **Mr. Pakorn Niemrat**³² passed the exam to become a sergeant in the Border Patrol Police (BPP) and began training at Camp Than Muk in Songkhla Province on 1 October 2023. On 10 October, he collapsed during a 10-kilometer run. Despite his condition, his instructor forced fellow trainees to carry him for the remaining distance. He was later taken to a basketball court and, eventually, to Sadao Hospital, where he passed away.

Following his death, Mr. Pakorn's mother sought justice, filing complaints and calling for accountability. The Criminal Court for Corruption and Misconduct in Songkhla dismissed the case, citing insufficient evidence to determine responsibility for his death. After 10 months, no one had been held accountable. CrCF later provided legal assistance, helping his mother file a formal complaint with the Anti-Torture and Enforced Disappearance Centre under the Office of the

³² See Annex for more details on this case.

Attorney General in Songkhla. The complaint seeks prosecution of the involved officers under Sections 5 and 6 of the Anti-Torture and Enforced Disappearance Act.

Another explicative case is that of **Second Lieutenant Sanan Thongdeenok**³³ who died during a training session for the Royal Guards (UKBT) on 6 June 2015. During a rigorous swimming test, the head instructor reportedly forced him to swim continuously, far beyond his physical limits. As a result, Lt. Sanan became exhausted, sank to the bottom of the pool and remained submerged for an extended period. Despite being responsible for the safety of the trainees, the instructor failed to provide timely assistance, leading to Lt. Sanan's death.

CrCF lawyers assisted Lt's Sanan's wife, Ms. Thanyarat Wannasathit, and his mother, Mrs. Wan Thongdeenok, in filing a tort lawsuit against the Royal Thai Army under the Act of Tortious Liability of Officials B.E. 2539 (1996). On 2 August 2022, the Civil Court in Bangkok delivered the Supreme Court's decision, ordering the Royal Thai Army to compensate the family. The Supreme Court ruled that the head instructor had acted negligently by forcing Lt. Sanan continued swimming despite his visible distress and exhaustion. This negligence was preventable, and the Royal Thai Army was found liable under Section 5, Paragraph 1 of the Act on Tortious Liability of Officials. This ruling, which followed earlier judgments from the Court of Appeals, concluded the legal proceedings, affirming the Army's responsibility for Lt. Sanan's death.

As highlighted in the case above, while criminal accountability for torture and deaths in custody remains elusive, civil lawsuits have offered some victims a more accessible path to seek compensation and acknowledgment of the harm endured. However, this legal recourse falls short of delivering full justice, as it rarely holds individuals fully accountable for the crimes committed, leaving systemic failures largely unaddressed.

The use of restraints during court hearings

CrCF has consistently raised concerns over the use of shackles on detainees during trial proceedings in Thailand, arguing that this practice constitutes degrading treatment and violates both domestic and international human rights standards. According to the UN Standards Minimum Rules for the Treatment of Prisoners (Rule 47 of the Mandela Rules), restraints should only be permissible when absolutely necessary, such as to prevent escape or harm, and never as a punishment. These rules further emphasize that restraints should not be used on pre-trial detainees in a manner that undermines their presumption of innocence or subjects them to degrading

³³ See Annex for more detail on this case. Also see <https://crcfthailand.org/case-library/sanan-thongdeenok/>

treatment. The Committee Against Torture has also consistently stated that the use of excessive restraints, such as shackles, may amount to ill-treatment.³⁴

In the case of **Mr. Sapon Surariddhidhamrong**, a student leader and pro-democracy activist, the use of shackles during his court appearance on 4 September 2023 starkly contrasted with these international standards. Despite being a non-violent pre-trial detainee with no demonstrated intent to flee, Mr. Sapon was transported to the Thonburi Criminal Court, shackled in leg chains and dressed in a prison uniform. CrCF petitioned for the cessation of these restraints, citing Section 26 of Thailand’s Anti-Torture Act. CrCF argued that the shackling of Mr. Sapon, a political detainee who had committed no violent acts and posed no security threat, violated his right to be presumed innocent and contravened the legal protections established under Section 6 of the Anti-Torture Act. However, the court dismissed the petition, justifying the use of restraints under regulations issued under the Penitentiary Act.

Similarly, in the case of **Mr. Y Quynh Bdap**, a Vietnamese refugee and human rights defender, the use of foot cuffs during his extradition hearing at the Bangkok Ratchada Criminal Court on 19 August 2024 raised serious concerns. Mr. Y Quynh, who is facing extradition to Viet Nam, was brought to court in shackles and dressed in prison uniform. CrCF filed a petition under Section 26 of the Anti-Torture Act to halt the use of such restraints, arguing that it violated both domestic law and international human rights standards. The petition also cited a landmark 2009 ruling by the Administrative Court in Black Case No. 747/2007 and Red Case No. 1438/2009,³⁵ involving a Malaysian national who had been sentenced to death for drug possession. In that case, the Malaysian national sued the Department of Corrections over the use of shackles, arguing it violated his rights. The court ruled in his favor, stating that the use of shackles constituted a violation of physical freedom and human dignity, amounting to ill-treatment. This decision highlighted that such practices contravened both the 2007 Thai Constitution and international human rights standards. However, the court dismissed CrCF’s petition, reasoning that the use of restraints was a precautionary measure under the Penitentiary Act.

Death in custody

Deaths in custody remain a significant concern in Thailand. CrCF has documented multiple cases that demonstrate a troubling pattern of failure to investigate deaths, lack of accountability, and insufficient redress for victims and their families.

³⁴ Association of the Prevention of Torture (APT) and Penal Reform International (PRI), Instruments of Restraint: Addressing risk factors to prevent torture and ill-treatment, 2025, <https://atlas-of-torture.org/entity/ovbtm6frbwkuvvm7xgvoenrk9?page=3>

³⁵ “ศสานวัฒนธรรม” ขึ้นคำร้อง ขอให้ปล่อยตัว “อี ควิน เบอคับ” ผู้ต้องหาคดีสังหารชายข้ามแดน | CrCF petitions to stop foot cuffs on “Y Quynh Bdap.”, 2 October 2024 ประชาไท, available at <http://prachatai.com/journal/2024/09/110553>

The case of Mr. **Thawatchai Wena**,³⁶ who died under suspicious circumstances in Prachuap Khiri Khan Provincial Prison on 29 November 2018, one day after being detained for drunk driving, exemplifies these issues. The prison authorities initially attributed his death to severe alcohol withdrawal, but an autopsy by the Central Institute of Forensic Science revealed multiple blunt-force injuries, suggesting he had been physically assaulted. Despite CCTV footage and witness testimony implicating a fellow inmate who was released from prison just one day after the death, prison authorities failed to properly investigate or prevent the assault. In 2021, Mr. Thawatchai's suspected assailant was convicted and sentenced to four years for the assault that caused Mr. Thawatchai's death, but this delayed accountability did little to address the systemic negligence that allowed the violence to occur. Moreover, the family's attempt to seek compensation through the Damages for the Injured Persons and Compensation and Expenses for the Accused in Criminal Cases Act was dismissed on procedural grounds, citing that the claim was filed beyond the one-year time limit.

Similarly, the case of Mr. **Abdulloh Esomuso**,³⁷ a suspected insurgent detained at Ingkhayutthaborihan Military Camp in Pattani Province in July 2019, raises concerns about torture and ill-treatment in military detention. Mr. Abdulloh was found unconscious a day after his arrest and later died from complications related to oxygen deprivation. Although civil society groups raised suspicions of torture, and the pattern of his injuries resembled other alleged cases of torture in military detention in southern Thailand, a two-year investigation by the Songkhla Provincial Court was unable to determine the exact cause of death. The court's conclusion, that Mr. Abdulloh died of cardiac arrest and lack of oxygen to the brain, failed to address the role of military personnel in his treatment during detention. The inability to investigate these allegations of torture adequately reflects the state's unwillingness or inability to hold security forces accountable for custodial abuse. Despite the prolonged legal process and the involvement of civil society and legal advocates, the court's findings left critical questions unanswered, further denying the family and the public the justice they seek.

The death of Mr. **Than Zin Oo**,³⁸ a Myanmar national, while in police custody in October 2022, also underscores the persistent failure of the Thai authorities to protect detainees and investigate deaths in custody thoroughly. After being arrested in Ranong Province as part of a drug investigation, Mr. Than Zin Oo lost consciousness and died three days later in the hospital. While the NHRCT found that a police officer had violated his human rights, no compensation has been provided to his family, and the Royal Thai Police have not been held accountable.³⁹ The Ranong

³⁶ See Annex for more details.

³⁷ See Annex for more details.

³⁸ See Annex for more details.

³⁹ NHRCT, รายงานผลการตรวจสอบ ที่ 109/2566 เรื่อง สิทธิและเสรีภาพในชีวิตและร่างกายอันเกี่ยวข้องกับสิทธิในกระบวนการยุติธรรมกรณีกล่าวอ้างว่า เจ้าหน้าที่ตำรวจข่มขู่และทำร้ายร่างกายผู้ต้องหาระหว่างควบคุมตัว Report No. 109/2023 on the Rights and Freedoms of Life and Body Related to Rights in the Justice Process in the Case of Allegations that Police Officers Threatened and Assaulted a Suspect During Detention (No. 109/2566 (2023)), 17 July 2023

Provincial Court's ruling⁴⁰ that Mr. Than Zin Oo died from sepsis and acute bacterial pneumonia following cerebral edema therapy did not explore the circumstances of his four-hour detention, during which he became critically ill. The failure to analyze the actions of the police during this period leaves unresolved whether misconduct or negligence contributed to his death.

On 11 January 2024, Mr. **Ko Aung Ko**,⁴¹ a 37-year-old Burmese migrant worker, was allegedly tortured and killed by Thai military officials in Mae Sot District, Tak Province. According to a report by Western News, Mr. Ko was beaten to death by state officers, although the exact agency responsible remains unclear. The incident occurred near the Thai-Myanmar border, a disputed area due to the changing Moei River boundaries. Attempts were reportedly made to classify the crime scene as being within Myanmar to avoid prosecution in Thailand, but witnesses identified Thai officials as the perpetrators. Mr. Ko had fled to Thailand after Myanmar's military coup and had lived there for over two years. Formerly a member of the People's Defense Force (PDF) and the Karen National Liberation Army (KNLA), he worked as a migrant laborer and part of a community security team protecting Burmese migrant workers. Following his death, conflicting reports emerged about the family allegedly receiving compensation from the Thai military. While some claimed the family accepted compensation to stay silent, others indicated they refused the payment. Witnesses and family members still fear retaliation. As of September 2024, the Cross-Cultural Foundation (CrCF) was contacted for legal support by a civil society organization focusing on Myanmar.

These cases reveal a consistent failure by the Thai state to protect detainees from violence and harm, particularly in custodial settings. Investigations into deaths in custody are often insufficient, leaving critical questions about potential misconduct or abuse unanswered. In cases like those of Mr. Thawatchai, Mr. Abdulloh, and Mr. Than Zin Oo, the state failed to conduct timely, independent investigations, allowing human rights violations to go unaddressed. Moreover, the barriers to seeking justice and redress, such as restrictive procedural time limits, the lack of accountability for state officials, and delays in receiving compensation, further exacerbate the suffering of victims' families.

Recommendations

- Promptly, thoroughly, and impartially investigate all allegations of torture and ill-treatment.
- Establish clear guidelines for forensic investigations and medical documentation of torture claims under the Istanbul Protocol, ensure adequate staffing and facilities for forensic examinations and provide ongoing training for personnel in the latest forensic technologies.
- Provide training to judges, prosecutors, and lawyers on the standards set by international law on torture and ill-treatment.

⁴⁰ Mr. Than Zin Oo Death Inquest, No. Red case no. Chor 1/2024 (Ranong Provincial Court February 29, 2024).

⁴¹ See Annex for more details.

- Promptly ratify the Optional Protocol to the Convention Against Torture (OPCAT) with a view to establish a framework for regular and unannounced visits by national and international monitoring bodies to enhance oversight and help prevent torture, as well as other forms of cruel, inhuman, or degrading treatment or punishment.
- Ensure that detainees receive adequate medical care while in custody and establish protocols to monitor detainees' health conditions, particularly those with pre-existing conditions that could be exacerbated by detention.
- Amend the Military Discipline Act B.E. 2476 (1933) to eliminate provisions that enable abuse and permit corporal punishment and create independent oversight bodies to monitor military training practices and investigate allegations of abuse. Additionally, victims and their families should be provided with clear pathways to seek justice and accountability, including ensuring that military personnel can be prosecuted in civilian courts for violations of human rights.
- Conduct a comprehensive review of the Penitentiary Act and other relevant regulations to ensure they comply with international human rights standards, including the Mandela Rules, and Thailand's Anti-Torture Act. Revisions should explicitly limit the use of restraints in court settings.
- Conduct independent and impartial investigations into all deaths in custody, including by establishing a dedicated investigative unit, ensuring transparency in autopsy reports and judicial inquests.
- Implement a public reporting system on the outcomes of investigations into deaths in custody and ensure that families are kept informed of investigative processes and results, with the state taking responsibility where negligence or abuse is found.

ENFORCED DISAPPEARANCE

Enforced disappearance is expressly prohibited under both Thai and international law, notably through Thailand's Anti-Torture and Enforced Disappearance Act and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).

The Anti-Torture and Enforced Disappearance Act, underscores the State's responsibility in preventing acts of enforced disappearance and ensuring that victims are afforded legal protection. A key provision in the Act is that the offense of enforced disappearance is considered continuous until the fate or whereabouts of the disappeared person is established (Section 7 (2)), allowing for prosecutions to be initiated even if the disappearance occurred before the law's enactment. Thailand acceded to the ICCPED on 14 May 2024, and the Convention entered into force on 13 June 2024. The accession represents a positive step forward in addressing the issue of enforced disappearance; however, significant challenges remain in implementing these legal provisions effectively.

Despite this legal framework, Thailand has witnessed numerous cases of enforced disappearance, many of which remain unresolved. These cases highlight the challenges of accountability, institutional flaws and the lack of adequate measures to prevent and address enforced disappearance.

One of the most prominent cases is that of **Mr. Porlajee “Billy” Rakchongcharoen**, a Karen environmental human rights defender, who disappeared in 2014 after being detained by national park officials in Kaeng Krachan National Park. His case has become emblematic of the struggles faced by human rights defenders and environmental activists in Thailand, especially those from minority communities like the Karen.

Billy was known for advocating on behalf of his community, particularly around land rights and forced evictions. He played a key role in a 2011 lawsuit against authorities who had demolished the homes of over 20 Karen families in Jai Phaen Din. Shortly after this legal action, Billy disappeared. Years later, in 2019, the DSI uncovered critical evidence confirming Billy's murder, leading to an arrest warrant for Mr. Chaiwat Limlikit-aksorn, a former chief of Kaeng Krachan National Park, and four other officials.⁴² They were charged with premeditated abduction and murder. Despite this breakthrough, Mr. Chaiwat received only a three-year prison sentence for neglect of duty in relation to Billy's detention, while three of his subordinates were acquitted. The court ruled that they were merely following orders.

Mr. Chaiwat was granted bail by the Central Criminal Court for Corruption and Misconduct Cases, and a travel ban was imposed. He then appealed the conviction requesting the court to dismiss the case. In reviewing the murder charges, the court found that forensic evidence was inconclusive.⁴³ The bones discovered by the DSI could not be definitively identified as Billy's remains, and prosecutors deemed the DNA evidence insufficient. The Court further remarked that the plaintiffs were unable to confirm whether Billy was alive or dead. Consequently, Billy remains officially classified as a missing person, with the court stating that the evidence was not enough to implicate the defendants in his murder.

Billy's family has since filed a civil lawsuit against the Department of National Parks, Wildlife, and Plant Conservation, seeking over 26 million baht in compensation under the Act on Tortious Liability of Officials. This case is scheduled for witness examination on 21 and 25 to 28 February 2025. Despite the international attention on Billy's disappearance, the lack of decisive legal action underscores the systemic challenges in securing justice for victims of enforced disappearances in Thailand.

⁴² Rojanaphruk, P., & Writer, S. S. (2019, September 3). Bones at Nat'l Park Belong to Missing Karen Activist: DSI. <https://www.khaosodenglish.com/featured/2019/09/03/bones-at-natl-park-belong-to-missing-karen-activist-dsi/>

⁴³ Wachpanich, N. (n.d.). Thai court clears park rangers in murder case of activist 'Billy.' Hard Stories. <https://hardstories.org/news/thai-court-clears-park-rangers-in-murder-case-of-activist-billy>

Transnational Repression of Political Activists and Dissidents

In recent years, there has been a disturbing trend of enforced disappearances involving Thai political dissidents living in exile in neighboring countries. This pattern, which emerged following the military coup d'état by the National Council for Peace and Order (NCPO) in 2014, is characterized by the targeting of individuals critical of the Thai government and monarchy, often involving alleged violations of the lèse-majesté law (Article 112 of the Thai Criminal Code), and their subsequent disappearance in neighboring countries.

Between 2016 and 2019, nine Thai political refugees who had fled persecution to neighboring countries have disappeared under suspicious circumstances. These individuals were residing in countries such as Laos, Cambodia, and Viet Nam.

Wanchalearm “Tar” Satsaksit was a former NGO officer who worked on HIV/AIDS issues, sexual diversity, and LGBTQ+ rights. He also served as a staff member for the Pheu Thai Party. Authorities identified him as the administrator of an anti-junta Facebook page titled "กูต้องได้ 100 ล้าน จากทักษิณแน่ๆ" ("I Must Get 100 million from Thaksin for Sure"). He faced charges for violating a National Council for Peace and Order (NCPO) summons order in 2014 and the Computer Crime Act in 2018. Additionally, Isranews reported that he was accused of lèse-majesté in 2015.⁴⁴

Wanchalearm fled Thailand following the 2014 military coup, seeking refuge in Phnom Penh, Cambodia. On 26 June 2002, the day of his disappearance, his sister, Ms. Sitanun Satsaksit, was speaking with him on the phone when she heard him exclaim, "I can't breathe" before abruptly losing contact. It was later discovered that he had been abducted by unknown individuals in front of his apartment in Phnom Penh, a scene captured by CCTV cameras.

Despite overwhelming evidence, including CCTV footage and eyewitness accounts, the investigation into Wanchalearm's disappearance has been marred by inaction and a lack of political will from both Cambodia and Thailand. While the Ministry of Interior and the Public Prosecutor of the Phnom Penh Municipal Court were approached by Wanchalearm's family and legal team, there has been little tangible progress in the case.

In March 2024, Cambodian authorities claimed they had closed the probe into Wanchalearm's disappearance, citing a lack of evidence. However, the legal team has not received formal communication from the court, and it remains unclear whether the case has officially been closed by the Phnom Penh Municipal Court.⁴⁵ This ambiguity raises serious concerns about the

⁴⁴ Isranews, รายชื่อ 29 ผู้ต้องหา ‘คดี 112’ ในต่างแดน ‘แบล็กลิสต์’ รัฐบาล-คสช. List of 29 refugees charged of “Section 112” case, “blacklist” of government-NCPO, 3 June 2015, available at https://www.isranews.org/isranews-scoop/39015-blacklist_8882392392.html

⁴⁵ Narin, S., & Sutthichaya, Voice of America, Cambodia Ends Probe Into Abduction of Thai Activist. 9 March 2024. <https://www.voanews.com/a/cambodia-ends-probe-into-2020-abduction-of-pheu-thai-activist-/7520128.html>

transparency and commitment of Cambodian authorities to fulfilling their obligations under international law.

During the review of Cambodia's first report under Article 29 of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), the Committee had urged the Cambodian government to conduct a thorough investigation into Wanchalearm's disappearance and to provide information on his whereabouts. The Committee expressed concerns over the lack of progress and failure to hold those responsible accountable.⁴⁶

The Thai government's lack of action in pursuing justice for Wanchalearm is also concerning, especially given the numerous appeals made by his family and legal team to various Thai institutions, including the OAG, the Rights and Liberties Protection Department of the Ministry of Justice (RLPD-MOJ), the NHRCT, the Department of Special Investigation (DSI), and even the Prime Minister's Office. Despite these efforts, Thai authorities have done little to investigate or pressure their Cambodian counterparts for a full inquiry.

Given the lack of accountability at the national level, Wanchalearm's family and civil society organisations have turned to international bodies for support. Appeals to the United Nations Working Group on Enforced or Involuntary Disappearances (UNWGEID) and the Committee on Enforced Disappearances (CED) have brought international attention to the case, with these bodies urging Cambodia and Thailand to conduct thorough investigations and ensure accountability.

Despite these extensive efforts across both national and international platforms, their struggle has yielded no significant progress, leaving the family without answers or accountability for Wanchalearm's disappearance. Additionally, Sitanun Satsaksit, sister of Wanchalearm, has faced multiple forms of harassment. In April 2022, she received a disturbing photograph labeling her and another activist as individuals under "special surveillance" by Thai authorities. In February 2024, she was blockaded for over two hours by more than ten police while attempting to inquire about her brother's disappearance during former Prime Minister of Cambodia Hun Sen Visit to Thaksin Shinawatra's residence. The officers claimed that she was a national security threat. Furthermore, during a September 2024 event marking the International Day of the Disappeared, efforts were made by co-organizers and security agencies to censor any mention of Wanchalearm's case, leading to the cancellation of a book launch that included his story.

Chucheep “Uncle Sanam Luang” Cheewasut, identified by Thai authorities as the leader of the “Thai Federation” group, an underground republican movement, disappeared in May 2019 after being arrested in Viet Nam and reportedly extradited to Thailand along fellow activists Siam Theerawutand and Kritsana Tapthai. He faced charges under Article 112 of Thailand's Criminal

⁴⁶ FIDH, CrCF, TLHR, Cambodia: UN body calls for investigations into the disappearances of Cambodian boy and Thai activist 14 March 2024, available at: <https://www.fidh.org/en/region/asia/cambodia/cambodia-un-body-calls-for-investigations-into-the-disappearances-of>

Code (lèse-majesté) and sedition due to his radio broadcast activities. Their whereabouts have remained unknown since then.

Siam "Comrade Mango Sticky Rice" Theerawut, a political science graduate from Ramkhamhaeng University and former member of the band Prakaifai, was charged under Article 112 for his role in the 2013 theater performance "Wolf Bride", held to commemorate the 40th anniversary of the October 14, 1973 uprising. According to Thai Lawyers for Human Rights, he last communicated with his sister via the Line messaging app between December 31, 2018, and January 1, 2019. Shortly after, reports surfaced of his arrest in Viet Nam alongside Chucheep and Kritsana.

Despite the family's continuous efforts to seek justice through numerous national and international bodies—including the Crime Suppression Division, Ministry of Justice, and the UN—no information on his whereabouts has been obtained. In June 2024, the Anti-Torture and Enforced Disappearance Centre issued an order⁴⁷ to terminate the complaint regarding Siam's disappearance, citing insufficient evidence and uncertainty about state officials' involvement, as required by Section 10 of Thailand's Anti-Torture and Enforced Disappearance Act. Furthermore, it ruled that it has not been found that there were any other crimes punishable under Thai law committed outside the Kingdom of Thailand.⁴⁸

Kritsana Thapthai ("Comrade Young Blood"), a member of the Thai Federation group, was charged under Thailand's security laws for possession of weapons and explosives during the People's Democratic Reform Committee (PDRC)'s protests in 2013. A source in Laos informed BBC Thai that their last contact with Kritsana was on January 24, 2019, after which he became unresponsive, like Siam and Chucheep.⁴⁹

Surachai Danwattananusorn, a prominent leader of the Red Shirt movement, underground radio broadcaster, and former lèse-majesté prisoner, went missing in December 2018, along with two fellow activists, Chatchan Buppawan and Kraidej Luelert (see below). Surachai's wife, Ms. Pranee Danwattananusorn, last communicated with him on 9 December 2018 via Line. Despite filing complaints to numerous domestic and international bodies including the Royal Thai Police (RTP), the NHRCT, the RLPD-MoJ, the OAG, the Prime Minister's Office, the Parliamentary Committee, the Victim Compensation department (Ministry of Justice), the Anti-Torture and Enforced Disappearance Centre, and the UN, Surachai's disappearance remains unresolved.

Chatchan "Comrade Phuchana" Buppawan was a former member of the Red Shirt movement's security team and an underground radio broadcaster. He faced charges under security laws for possession of weapons and explosives during the PDRC protests. His son stated that his father last

⁴⁷ OAG's Letter of Termination of Case No. OAG00335/536, dated 27 June 2024.

⁴⁸ Ibid.

⁴⁹ BBC News, วันเฉลิม: ชื่อนรอยผู้ลี้ภัย ไทรภู “อุ้มหาย” บ้างหลังรัฐประหาร 2557 Wanchalerm: Retracing the history of refugees: Who was “abducted” after the 2014 coup? (n.d.). ไทย. Retrieved October 2, 2024, from <https://www.bbc.com/thai/thailand-52946342>

contacted him via Line on 12 December 2018, mentioning he would be away for three to four days but never returned. Shortly before the New Year, two mutilated bodies were discovered floating in the Mekong River in Nakhon Phanom province. They had been disemboweled and their stomachs stuffed with concrete blocks. Police contacted his family for DNA verification, and one of the bodies was identified as that of Chatchan.

However, despite the family's efforts, the investigation has made no progress. The Nakhon Phanom police, who are responsible for the murder investigation, have reported that they are still awaiting further leads. They claim to have sought authorization from the Attorney General to extend their investigation into Laos, and that this request was denied. As a result, the case remains pending at the Nakhon Phanom City Police Station since 2018. Although the family has provided statements, no witnesses have come forward, likely due to fears of reprisals. On 13 March 2024, Chatchan's family petitioned the Parliamentary Committee on Legal Affairs, Justice, and Human Rights demanding an investigation into his disappearance and a thorough search for all evidence. They also submitted a complaint to the NHRCT.

Kraidej "Comrade Kasalong" Luelert, a member of the Red Shirt movement and underground radio broadcast, disappeared with Surachai and Chatchan in Laos. His body was discovered in the Mekong River and later identified through DNA testing. His stomach was filled with concrete blocks.

Wutthipong "Ko Tee"/"Comrade Puppy" Kotthammakun was a former Pathum Thani Red Shirt leader and owner of the local radio station "Red Guard". Authorities identified him as a member of the Thai Federation group. He faced multiple charges, including Article 112 (lèse-majesté) for allegedly defaming the monarchy in 2014 during an interview with foreign media, illegal trespassing at the 2009 ASEAN conference, possession of weapons, and his alleged involvement in a bombing at Mr. Samran Rodpetch's residence in 2014. He was reportedly abducted by armed men in Laos in July 2017 and has not been seen since.

Ittipol "DJ Sunho"/"DJ Beer" Sukpan, a former Red Shirt member based in Chiang Mai and an underground radio broadcaster, was charged under Article 112 (lèse-majesté) and went missing in July 2016 in Laos. According to the Internet Law Reform Dialogue (iLaw),⁵⁰ he last contacted a close friend on 19 July 2016. Three days later, he was last seen leaving a restaurant on a motorcycle. That night, witnesses reported hearing a scream in the area. His motorcycle and one shoe were found one kilometer from the restaurant, and he has been missing ever since.

The enforced disappearances of these nine Thai political dissidents underscore a harrowing trend of transnational repression. This pattern reveals a calculated effort by the Thai authorities to silence opposition beyond their borders, employing legal charges such as lèse-majesté to justify the

⁵⁰ iLaw, ผู้สื่อข่าวไทยสูญหายเพิ่มอย่างน้อย 3 คน ยังไม่ทราบชะตากรรม At least three more Thai refugees missing, fate still unknown. iLaw. <https://www.ilaw.or.th/articles/9407>, 13 May 2019

suppression of dissenting voices. The disturbing similarities among these cases highlight a coordinated campaign approach to eradicate dissent, with significant implications for regional human rights and the safety of exiled activists.

On 10 June 2024, the NHRCT held a press conference to present its report on the investigation into the enforced disappearance of the nine Thai nationals whose cases have been detailed above. The report⁵¹ provided a comprehensive overview of the political background of the missing persons, the circumstances of their disappearances or death, and the subsequent complaints filed by their relatives with various authorities. It highlights the profound suffering endured by the families of the missing dissidents, including severe threats to their personal security, deep mental anguish, and significant financial hardship. The pervasive lack of confidence in the justice system has driven some families to abandon their pursuit of justice. Others have reportedly experienced intrusive visits from government officials, which have only exacerbated their anxiety and fostered a deep-seated mistrust in the authorities.

The report critically examines the responses of state agencies, exposing a troubling pattern of inaction. Investigations into these disappearances, which occurred abroad, have been hindered by jurisdictional challenges and a lack of cooperation between Thai and foreign authorities. Despite having evidence such as photographs and eyewitness accounts, both Thai and neighboring governments have failed to identify the perpetrators or bring them to justice.

The NHRCT's findings indicate that the disappearance of the nine individuals likely constitutes enforced disappearances as defined by the ICPPED. While direct evidence of state officials' involvement is lacking, the political activities of victims—both before and after leaving Thailand—and the patterns of their disappearances suggest state acquiescence and exhibit a methodical approach consistent with state-sponsored actions. The methods used in the arrest or abduction of these individuals exhibit strikingly similar patterns: they were meticulously planned operations, leaving behind no trace of evidence. Such operations are typically beyond the capabilities of private entities unless they are well-organized crime networks. However, there is no indication that the missing persons had conflicts with criminal organizations. Moreover, Thai government agencies had been actively targeting these individuals, as demonstrated by a 2015 directive from the Committee for the Prevention and Resolution of Cases Against National Security,⁵² established by the Prime Minister's Office, which instructed officials to expedite legal action against them. This suggests a plausible connection between their disappearances or deaths and their political activities and existing arrest warrants, pointing to the likelihood that their

⁵¹ NHRCT, รายงานผลการตรวจสอบ เรื่อง สิทธิและเสรีภาพในชีวิตและร่างกาย กรณีขอให้ตรวจสอบการบังคับสูญหายบุคคลที่ทำนกอาศัยในประเทศไทยเพื่อนบ้านเพื่อขอลี้ภัยทางการเมือง Report on the findings of the investigation into the rights and freedoms of life and body in the case of requesting an investigation into the enforced disappearance of persons residing in neighboring countries seeking political asylum. (No. 22/2024 (2567); p. 28), 2024, <https://static.nhrc.or.th/file/content/pdf/27662/22-1716800488.pdf>

⁵² Prime Minister's Order No. 67/2558 (2015) on the Committee for the Prevention and Resolution of Cases Against National Security, dated 2 March 2015, which was later revoked by Prime Minister's Order No. 47/2561 on the Committee for the Prevention and Resolution of Cases Against National Security, dated 11 April 2018

enforced disappearance were politically motivated. The pattern of enforced disappearances also indicates regional cooperation among governments, involving coordination, assistance between states, or tacit permission for cross-border abductions.

Despite the compelling evidence and international concern, including a letter from UN human rights experts in December 2020,⁵³ the Thai government has continued to deny involvement and has failed to conduct meaningful investigations. Despite the incidents occurring outside Thailand, the state has mechanisms in place for international cooperation to investigate and determine the fate of the missing persons. Regrettably, no effective coordination has been undertaken. This lack of action, combined with persistent delays and vague responses from state agencies, underscores the inadequacy of both domestic and international legal frameworks designed to address enforced disappearance. As a result, families are left without justice, their fundamental right to know what happened to their loved ones remains unfulfilled.

Moreover, while the Anti-Torture and Enforced Disappearance Act provides for financial and psychological assistance and financial compensation, including long-term medical rehabilitation for victims, the committee established under this law has yet to define criteria and methods for providing such assistance and compensation. Consequently, the families of the victims have not received any compensation, exacerbating their suffering.

The case of Mr. **Yahri Dueloh**,⁵⁴ a Malay-Muslim individual who disappeared while in Malaysia, also raises concerns about cross-border abductions and the safety of political dissidents in exile, reflecting the complexities of international cooperation and the protection of asylum seekers, especially concerning minority groups and those involved in political activism.

Mr. Yahri Dueloh, a resident of Riko Subdistrict, Su-ngai Padi District, Narathiwat Province, vanished under mysterious circumstances on 27 September 2022. Local media and activists reported that Mr. Yahri had been ambushed by a group of plainclothes men, allegedly Thai officers, while working in Malaysia.⁵⁵ The following day, on 28 September, an unidentified body was discovered in the Su-ngai Kolok River, which serves as a border between Thailand and Malaysia. The body was taken to Narathiwat Rajanagarindra Hospital, where the family confirmed it as Mr. Yahri's based on visible marks, and the body was returned to them for Islamic funeral rites.

However, officials later refuted the family's identification, insisting that the body was not Mr. Yahri's and requesting an exhumation for further examination. Officers were sent to the Pahong Kupas Cemetery in Su-ngai Padi to exhume the body, prompting protests from the family and residents, leading to heated confrontations. As a result, on 16 March 2023, Sungai Padi Police

⁵³ AL THA 8/2020, 11 December 2020,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25646>

⁵⁴ ศูนย์ข่าวภาคใต้. (2024, September 15). เปิดไทม์ไลน์ขอขุดศพ “ยัหรี คือเลาะ” เหตุไม่ใช้ศพปริศนาในแม่น้ำโก-ลก Timeline before the request of exhumation of “Yahri Dueloh” body, available at: <https://isranews.org/article/south-news/south-slide/114358-yarinara.html>

⁵⁵ Ibid.

issued summons for six people involved in blocking the exhumation, including Mr. Yahri's family members and civil society workers.⁵⁶ Subsequently, Mr. Yahri's wife and mother were taken to court and sentenced to one month in prison and a fine of 5,000 baht each, though the prison sentence was suspended for one year.⁵⁷

This case exemplifies the troubling pattern of transnational repression and enforced disappearance, intensifying the risks faced by human rights defenders and their families. This situation not only underscores the challenges in addressing enforced disappearances across borders but also highlights the reprisals faced by families, activists, and media who seek justice, as they have encountered legal charges and intimidation following the protest at the attempt of the body exhumation.

Refoulement in the context of transnational repression

In the context of transnational repression, the legal obligations of Thailand under international human rights law, particularly the principle of non-refoulement, assume critical importance. Non-refoulement, codified in Article 3 of the Convention Against Torture (UNCAT), unequivocally prohibits the expulsion, return, or extradition of individuals to states where substantial grounds exist for believing that they would be at risk of torture or other forms of ill-treatment. Furthermore, Article 13 of the Anti-Torture and Enforced Disappearance Act explicitly prohibits the extradition of individuals to states where there are substantial grounds to believe they would face torture, cruel, inhuman, or degrading treatment or enforced disappearance.

The case of [Y Quynh Bdap](#) serves as an illustration of the potential violations of this principle by the Thai authorities, especially in light of their handling of extradition requests from states known for systemic human rights abuses. Mr. Bdap, a Montagnard human rights defender and co-founder of Montagnards Stand for Justice, faces extradition from Thailand to Viet Nam, where he has been convicted in absentia on politically motivated charges of terrorism. This conviction has been condemned by various international human rights bodies as emblematic of a broader pattern of repression targeting dissenters.⁵⁸

⁵⁶ Patani Notes, ออกหมายเรียกญาติ และคนทำงานภาคประชาสังคม กรณีด้านบุคคล “ยะหรี คือเลาะ” Police issues summons to relatives and civil society workers in case of protest against exhumation of Yahri's body, 15 March 2023, available at:

https://www.facebook.com/permalink.php?story_fbid=783202559899921&id=100046305528363&ref=embed_post

⁵⁷ ศูนย์ข่าวภาคใต้. สั่งจำคุกภรรยา-แม่ “ยะหรี” เหตุขัดขวางขุดศพปริศนาพิสูจน์อัตลักษณ์ Court verdicts imprisonment of wife and mother of “Yahri” for obstructing body exhumation to verify identity, 15 September 2024, available at: <https://www.isranews.org/article/south-news/south-slide/120044-yarinacourt.html>

⁵⁸ Amicus Curiae Submission for Mr. Y Quynh Bdap case, United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Professor Ben Saul, 12 August 2024; United Nations Human Rights Special Procedures., Experts condemn misuse of counter-terrorism law against Montagnards in Viet Nam, available at: <https://www.ohchr.org/en/press-releases/2024/08/experts-condemn-misuse-counter-terrorism-law-against-montagnards-viet-nam>; Amnesty International, Viet Nam: Man believed to be at imminent risk of execution in case beset by forced confession and torture allegations, 7 August 2023, <https://www.amnesty.org/en/latest/news/2023/08/viet-nam-man-believed-to-be-at-imminent-risk-of-execution-in-case-beset-by-forced-confession-and-torture-allegations/>

The decision by Thai authorities to entertain the extradition request from the Vietnamese government, despite the substantial evidence indicating the imminent risk of torture and enforced disappearance faced by Mr. Bdap, raises questions about Thailand's compliance with the non-refoulement principle. This principle is grounded in the recognition that states have a responsibility to protect individuals from violations of their fundamental rights, particularly in contexts where those rights are systematically undermined. The jurisprudence of the Committee has made it abundantly clear that the obligation of non-refoulement is absolute and must be upheld regardless of the charges brought against an individual, including those purportedly relating to national security.

The Committee Against Torture's General Comment No. 4⁵⁹ underscores that risk assessments must be comprehensive and should consider the specific circumstances surrounding each case. This includes considering the individual's ethnic background, political beliefs, prior treatment at the hands of authorities, and the broader human rights landscape within the country of origin. In this context, the documented history of severe human rights abuses against the Montagnard community and other dissidents in Viet Nam raises significant concerns regarding the potential consequences of extraditing Mr. Bdap, as recently highlighted by a UN experts communication.⁶⁰ Reports from various international human rights organisations and experts⁶¹ consistently document patterns of arbitrary detention, torture, and enforced disappearance of individuals returned to Viet Nam, particularly those who have engaged in legitimate political dissent or have been associated with minorities communities.

Recommendations

- Ensure thorough, prompt, and effective investigations into all cases of enforced disappearance, even in the absence of remains. Investigations must be initiated whenever there are reasonable grounds to believe a person has been subjected to enforced disappearance, regardless of formal complaints.

⁵⁹ UN Committee against Torture, 'General Comment No. 4 (2017) on the implementation of article 3 of the Convention against Torture in the context of article 22', UN Doc. CAT/C/GC/4, 4 September 2018, para 13, available at: <https://www.ohchr.org/en/documents/general-comments-and-recommendations/catcg4-general-comment-no-4-2017-implementation> ('CAT/C/GC/4')

⁶⁰ Communication AL VNM 4/2024, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Special Rapporteur on the situation of human rights defenders, Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Independent Expert on human rights and international solidarity, Special Rapporteur on Minority issues, Working Group on enforced or involuntary disappearances, Special Rapporteur on the right to freedom of opinion and expression, Special Rapporteur on the human rights of migrants, and Special Rapporteur on freedom of religion or belief, 'Experts alarmed by possible extradition of refugee and human rights defender Y Quynh Bdap from Thailand to Vietnam,' 4 July 2024, available at: <https://www.ohchr.org/en/press-releases/2024/07/experts-alarmed-possible-extradition-refugee-and-human-rights-defender-y>

⁶¹ See for example Amicus Curiae Submission, United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Professor Ben Saul, 12 August 2024, <https://www.ohchr.org/sites/default/files/documents/issues/terrorism/sr/court-submissions/202408-Amicus-SRCT-Thailand-en.pdf>

- Investigate enforced disappearances that occur outside Thailand’s jurisdiction, particularly in neighboring countries like Cambodia, Vietnam and Laos. The state should actively cooperate with international bodies to resolve cross-border cases.
- Provide individuals affected by enforced disappearances with access to information regarding the investigation and the whereabouts of the disappeared persons, alongside fair compensation and a comprehensive support programme that include psychological, social and financial support.
- Ensure cooperation with the Working Group on Enforced or Involuntary Disappearances by providing regular updates on progress made and allowing their requests for country visits.

FILING OF COMPLAINTS, INVESTIGATION AND PROSECUTION

Before the enactment of the Anti-Torture and Enforced Disappearance Act, complaints of torture and enforced disappearance were submitted to bodies such as the NHRCT and the RLPD. The RLPD handled these complaints through its Subcommittee for Screening Cases of Torture and Enforced disappearance.

From 2017 to 2020, complaints related to the violations of rights in the justice process filed with the NHRCT decreased overall; however, reports of torture and abuse of power, such as unlawful detention, fluctuated during this period, demonstrating the ongoing prevalence of these abuses.⁶² Notably, during the first eight months of 2021, the proportion of such complaints dropped significantly compared to 2020. This reduction may be attributed to the enactment of the Organic Act on The National Human Rights Commission, B.E. 2560 (2017), which limited the NHRCT’s ability to accept cases already under court consideration or requiring action from other agencies. Despite these constraints, since November 2020, the NHRCT has been able to accept cases of police abuse of power for coordination with other agencies.

The NHRCT’s response mechanisms have faced criticism for being ineffective, often characterized by delays, lack of thorough investigations, and inadequate redress for victims. Many complaints were closed for reasons such as withdrawal, referral to other agencies, or lack of evidence. While not all closures imply the absence of human rights violations, some reflect jurisdictional issues arising from ongoing legal processes. Additionally, concerns arise when

⁶² The Standard, กางสถิติ ‘ซ้อมทรมาน’ ผ่านเรื่องร้องเรียน ปฏิรูปตำรวจ-พ.ร.บ.คุ้มครองฯ ช่วยได้แค่ไหน? The statistics of “torture” through complaints, how much can police reform and the Anti-Torture and Enforced Disappearance Act help?, 14 September 2021, available at: <https://thestandard.co/prevent-forced-disappearance-act/>; also see National Human Rights Commission, Statistical information on complaints received in the fiscal year 2021 (October 1, 2020 - March 31, 2021, available at <https://www.nhrc.or.th/en/complaint-statistics>;

victims withdraw complaints, often out of fear for their safety. Although witness protection mechanisms, such as safe houses or name changes, are available through the Ministry of Justice, fear continues to deter some victims from pursuing their cases.⁶³ For example, in September 2023, the DSI terminated the witness protection program of Ms. Pinnapa Phrueksaphan, the wife of missing activist Porlajee Rakchongcharoen, despite alleged ongoing threats from defendants, including Mr. Chaiwat Limlikit-aksorn, former chief of Kaeng Kachan National Park.

In Thailand's second periodic report to the UN Committee Against Torture in 2021 (para. 79),⁶⁴ it noted that between 2017 and 2020, the Subcommittee on Screening Cases of Torture and Enforced Disappearance received 258 complaints of torture and five cases of enforced disappearance. Of these, 188 complaints of torture were dismissed as they did not meet the legal definition of torture. Sixty-eight complaints of torture and four of enforced disappearance were still under review, with only two torture cases and one enforced disappearance case found to have "founding grounds". However, as highlighted in this report, authorities often lack a proper understanding of the definition of torture and ill-treatment. For instance, in the case of **Attasith Nussa**, his complaint was rejected for lacking "serious or severe injuries." The CrCF's repeated requests to review case files were denied, highlighting the systemic lack of transparency.

As of November 2024, the RLPD-MoJ reported receiving 13 complaints since the Anti-Torture and Enforced Disappearance came into force. These included six cases allegations of torture and seven of ill-treatment, with no registered cases of enforced disappearance. However, no detailed public reports on the specifics of these cases or their legal outcomes have been made available.

This first case brought under the Anti-Torture and Enforced Disappearance Act was filed with the Criminal Court for Corruption and Misconduct Cases, Region 5, on 27 December 2023. Private **Kittithorn Wiangbanpot**, a conscript in the 1/66th group at Mengrai Maharat Camp in Chiang Rai Province. Kittithorn was drafted in May 2023 and by July, he was severely ill showing symptoms of fever and lethargy. He had reportedly become ill after being injured during a training exercise. Despite requests for medical attention, he did not receive proper treatment. His wife eventually took him to a hospital, but he died on 16 July 2023 from blood infection. On 9 December 2024, two training instructors, a lieutenant and a sergeant major, were charged under Section 6 of the Anti-Torture and Enforced Disappearance Act for ill-treatment leading to his death. The defendants denied all charges and petitioned the Constitutional Court, arguing that prosecuting military personnel under this Act in civilian court contradicted the Constitution B.E. 2560 (2017), particularly regarding military jurisdiction. However, on 27 August 2024, the Constitutional Court, in a 5-4 ruling, declined to hear the petition, ruling that the matter fell under jurisdictional disputes

⁶³ Ibid.

⁶⁴ Thailand. (2021). Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/THA/2 para. 79), available at: <https://digitallibrary.un.org/record/3954241>

between courts.⁶⁵ This case marks the first case in which the public prosecutor has investigated and indicted under the Anti-Torture and Enforced Disappearance Act, with Private Kittithorn’s family acting as co-plaintiffs.

Additionally, as of March 2024, 316 cases of deaths in custody were submitted to RLPD-MOJ for investigation, with most classified as natural deaths and only a few requiring further investigations and or legal action.⁶⁶

Compounding these challenges are special laws that grant broad immunity to officials, thereby perpetuating a culture of impunity. Section 17 of the Emergency Decree shields officials from criminal, disciplinary, or civil actions for acts committed in the course of their duties, even when these actions result in serious violations of human rights, such as torture or arbitrary detention. This provision fosters a climate of impunity, where abuses of power can occur without any fear of legal repercussions. As a result, victims are left without effective recourse, as the law effectively removes any viable path to hold officials accountable. This erosion of accountability undermines the rule of law, diminishes public trust in state institutions, and disproportionately impacts vulnerable groups, further intensifying tensions in conflict-affected areas.

Similarly, Section 16 of the Martial Act exacerbates this issue by preventing civilians from claiming damages or compensation for actions carried out by military personnel under the Act. This provision creates a substantial barrier to accountability for abuses or misconduct by military forces. The combined effect of these provisions—granting officials broad discretionary powers, limiting judicial oversight, and ensuring legal immunity—fosters a system in which human rights violations can occur with relative impunity, undermining the fundamental safeguards that are essential in protecting individuals from state abuse.

Role of the Judiciary

The judiciary plays a critical role in ensuring accountability. The Anti-Torture and Enforced Disappearance Act provides judges and prosecutors broad powers to oversee cases, investigate allegations, and exclude evidence obtained through coercion. Key provisions, such as Section 24 (on disclosing information about persons in custody), Section 26 (on judicial intervention to investigate the three crimes), Section 27 (on judicial power to intervene and stop the act), and

⁶⁵ Isranews, ศาลชน.มิมติ 5:4 ไม่รับคำร้องกรณีฟ้องทหารที่ศาลพลเรือนจัดรัฐธรรมนูญหรือไม่ The Constitutional Court ruled 5:4 not to accept the petition on whether the lawsuit against the military in the civilian court violated the constitution or not, 3 October 2024, available at <https://isranews.org/article/isranews-news/131244-isranews-1000-1000-370.html>

⁶⁶ Cross Cultural Foundation, “จากนี้ประเทศไทยจะคุ้มครองศักดิ์ศรีความเป็นมนุษย์ ไร้การทรมาน-อุ้มหาย ทุกคนจะปลอดภัยในทุกขั้นตอนกระบวนการยุติธรรม” มูลนิธิผสานวัฒนธรรมร่วมกับกสม. จัดงานเสวนาครบรอบ 1 ปี พ.ร.บ. ซ่อมทรมานฯ “From now on, Thailand will protect human dignity, free from torture and enforced disappearance. Everyone will be safe in every step of the justice process.” CrCF, in collaboration with the National Human Rights Commission (NHRCT), organized a seminar to mark the 1st anniversary of the Torture Act, 1 March 2024, <https://crcfthailand.org/2024/03/01/53954/>

Section 34 (on the criminal court's jurisdiction over misconduct), equip the judiciary with broad investigative authority.

However, the judiciary has largely failed to effectively exercise these powers. One primary issue is a lack of understanding of the definitions of torture, ill-treatment, and enforced disappearance. Thai courts often struggle with these distinctions, particularly with recognizing psychological or non-physical forms of torture or ill-treatment, leading to the dismissal of cases that would otherwise meet international criteria.

For example, in the case of Mr. Sopon, the judiciary dismissed a petition regarding the use of foot cuffs during detention, citing existing prison regulations. The court's reliance on regulations without further scrutiny reflects a lack of understanding of the distinction between lawful use of restraints and potential ill-treatment, as well as an unwillingness to fully examine practices that may violate human rights. Similarly, in several instances, such as the cases of Mr. Abdulloh Esomuso and Mr. Thawatchai Wena,⁶⁷ where detainees died under suspicious circumstances in custody, the cause of death was attributed to natural causes without considering the conditions and context of their detention, such as the deprivation of medical care or extreme psychological pressure.

Lack of Impartiality and Independence

The judiciary's perceived lack of independence and impartiality has further undermined efforts to combat torture and enforced disappearances. The judiciary has frequently been criticized for favoring state interests in cases involving security forces. In cases where individuals have died or disappeared in custody, the courts frequently fail to hold state actors accountable, even when there is compelling evidence of misconduct.

For example, in the cases of **Than Zin Oo**, who died under suspicious circumstances after interrogation, the court failed to pursue an in-depth investigation, and crucial evidence, such as security camera footage, was inexplicably unavailable. Two years later, no criminal proceedings had been initiated, highlighting the judiciary's reluctance to challenge state authorities. This reluctance to issue rulings implicating government actors, combined with the absence of thorough investigations, undermines the credibility of the legal system and fosters a sense of injustice among victims' families.

Lack of Investigative Rigor

The judiciary's shortcomings are compounded by the lack of thorough and impartial investigations. Courts often rely on evidence presented by state agencies without sufficiently

⁶⁷ See Annex for more details on this case.

scrutinizing its validity, which is particularly problematic in cases involving torture allegations. Despite international prohibitions against admitting evidence obtained through torture, Thai courts often allow such evidence under Section 226/1 of the Criminal Procedure Code, which permits unlawfully obtained evidence if its probative value outweighs its adverse effects.

Victims of torture face significant hurdles in gathering evidence to support their claims, as the system heavily relies on official records such as police reports or medical records, which are often inaccessible. Forensic investigations tend to focus on d cases involving death, leaving non-lethal forms of torture, particularly psychological torture, largely investigated. Furthermore, victims often encounter resistance from law enforcement officials when attempting to file complaints. This creates an environment in which victims are forced to gather evidence independently, which significantly hinders their access to justice.

The cases of **Surakrich Chaimongkon**⁶⁸ and **Abdulloh Esomuso** illustrate these investigative shortcomings. On 2 April 2015, a post-mortem inquest was held in the Criminal Court in the (Black Case no. Chor 9/2557) regarding the death of Mr. Surakrich Chaimongkon, who had been accused of shooting dead prominent protest leader Mr. Suthin Tharathin. Arrested under Martial Law on 8 July 2014 and detained at the Bangkok Remand Prison, Surakrich died under suspicious circumstances on 28 August 2014. Observers noted that the investigation into his death in custody was delayed and ineffective. The medical report, issued by the Corrections Hospital - an institution within the same system potentially implicated in his death - further fueled concerns about the lack of transparency and independence. Both the medical and autopsy results were questioned for their credibility, as the official inquest failed to provide an impartial and thorough examination, leaving Mr. Surakrich's family without justice or a clear understanding of the cause of his death.

Inadequate Cross-Border Investigations

The challenges in investigating cases of torture and enforced disappearances are further exacerbated when they occur outside Thailand's jurisdiction. A major issue is the reluctance of both Thai and foreign authorities to effectively coordinate cross-border investigations. This lack of cooperation obstructs comprehensive efforts to resolve disappearances and other human rights violations, even when evidence is available. Procedural gaps between countries often result in investigations stalling or failing to produce meaningful outcomes.

For example, in the case of **Wanchalearm Satsaksit**, despite the presence of eyewitnesses and photographic evidence, authorities failed to take decisive action, citing jurisdictional barriers. This reluctance highlights broader inadequacies in cross-border legal cooperation, where investigations

⁶⁸ CrCF, Surakrit Chaimongkon, available at: <https://crcfthailand.org/en/case-library/surakrit-chaimongkon/>; CrCF, Death in Custody: Death of Mr. Surakrich Chainmongkon in Bangkok Remand Prison, 8 April 2015, available at: <https://crcfthailand.org/en/2015/04/08/4271/>

rely on fragmented efforts rather than a unified international framework, despite countries like Cambodia and Viet Nam ratifying relevant international conventions.

Additionally, blame-shifting between state agencies exacerbates the problem. Agencies often pass responsibility from one institution to another, claiming that the case falls outside their jurisdiction or authority. For instance, the Department of Special Investigation (DSI) may defer responsibility to the Office of the Attorney General (OAG) or the Ministry of Foreign Affairs when a crime occurs outside Thailand. In turn, the Foreign Ministry may claim that foreign governments are not cooperating. Similarly, local law enforcement or military bodies might refer cases to national agencies or the judiciary, asserting that they lack the authority to investigate without a formal directive.

These delays and excuses, often framed as procedural or jurisdictional limitations, reveal deeper systemic inefficiencies and a lack of political will to address the root causes of these issues. They expose significant gaps in domestic legal mechanisms, cross-border judicial cooperation, and the implementation of international legal standards, all of which continue to hinder the resolution of cases involving torture and enforced disappearances.

Recommendations

- Ensure transparency by providing regular reports on the outcomes of investigations into torture and enforced disappearance cases, including statistics on complaint received, investigated, and resolved.
- Strengthen witness protection programs to ensure safety for complainants and their families. Improve the protection measures to encourage victims to pursue justice without fear of reprisal.
- Enhance the capacity and independence of the NHRCT, the judiciary and medical professionals to effectively receive, investigate, and address complaints of torture and enforced disappearance, including by provide comprehensive training on international standards.
- Amend the Martial Law Act and Emergency Decree to remove provisions that grant security forces immunity from prosecution for human rights violations, including torture and extrajudicial killings.

REMEDIES AND RIGHT TO REDRESS

Civil society organisations report significant barriers for victims of state-perpetrated violations such as torture, ill-treatment, and enforced disappearance, in accessing state reparation

mechanisms.⁶⁹ These include ongoing fear and intimidation by state security forces, reluctance to accept reparations while the conflict persists, and in cases of enforced disappearance, the inability to identify perpetrators and the fate of the disappeared. In Thailand’s Southern Border Provinces, eligibility for reparations is subject to approval by multiple state authorities, including the police, military, and provincial administration.

Various government departments collaborate to offer services to victims. The Ministry of Social Development and Human Security provides financial and occupational support, the Ministry of Education offers scholarships for children of the victims, and the Ministry of Public Health for medical care and rehabilitation. Additionally, the Ministry of Justice offers financial compensation and legal assistance through its Office of Justice Fund and the Damages for The Injured Persons *and* Compensation and Expenses for The Accused in Criminal Cases Act B.E.2544 (2001). However, to qualify for compensation under this law, the “injured person” is required to submit official documents that verify the damage, such as a death certificate and an autopsy report. This requirement excludes cases of enforced disappearance where such documentation is typically unavailable due to the nature of the crime. For instance, in February 2023, the families of **Siam Theerawut** and **Surachai Danwattananusorn**’s request for compensation under this Act was denied since they were unable to submit the death certificate of their disappeared relatives.⁷⁰

The implementation of the Anti-Torture and Enforced Disappearance Act has also faced significant delays, particularly in the area of reparations for victims. The process has been criticized for its lack of transparency and for the slow pace at which reparations are delivered, leaving victims waiting excessively for justice and compensation. Furthermore, the absence of victim participation in decision-making has undermined the integrity of the reparation process. Victims and their families have minimal opportunity to contribute to or influence the process. This lack of involvement raises concerns about transparency and accountability in how reparations are managed under the Act.

In addition to state efforts, civil society organisations play a crucial role in providing restorative support, especially to vulnerable groups not covered by the state system. For instance, women's groups such as the Network of Civic Women for Peace, focus on rehabilitating women through psychosocial support and life skills programs. These organisations also assist women whose husbands have been detained and tortured, providing psychosocial support, human rights education, and developing support networks for women. Despite these vital efforts, civil society

⁶⁹ For example, see Asia Justice and Rights (AJAR), Comparative Research on Reparations from Six Countries in South-East Asia, 2022, available at: https://asia-ajar.org/wp-content/uploads/2022/12/Case-Study-Comparative-Research-on-Gender-Reparations-in-South-East-Asia-Myanmar_EN.pdf

⁷⁰ Thai Lawyers for Human Rights, เปิดอุทธรณ์โต้แย้งคำวินิจฉัยของคณะกรรมการฯ ชี้ “สุรชัย แซ่ด่าน-สยาม ธีรวุฒิ” ไม่ใช่ผู้เสียหายที่มีสิทธิตาม พ.ร.บ.ค่าตอบแทนผู้เสียหายฯ สองครอบครัวยื่นข้อต่อสู้เพื่อให้รัฐไทยชดเชยฯ Appeals against the decision of the committee, indicating that “Surachai -Siam” are not victims with rights under the Compensation for Victims Act. The two families insist on fighting for the Thai state to provide compensation, 27 September 2023, available at: <https://tlhr2014.com/archives/59960>

organisations often face limited resources, which creates additional challenges in ensuring equal access to reparations for all victims, particularly those affected by state abuses.

Recommendations

- Ensure timely access to legal redress for victims and families of torture and enforced disappearance by simplifying the legal processes for filing complaints and obtaining compensation under the Act.
- Implement robust protective measures for victims of state violations, including the establishment of secure reporting mechanisms to reduce fear and intimidation.
- Establish an independent body to oversee the reparation process, ensuring transparency and accountability. This body should include representatives from civil society and victim groups to ensure their voices are heard in decision-making.
- Regularly publish report on the status of reparation claims, including the number of claims submitted, processed, and granted, to enhance accountability and public trust in the system

REPRISALS AND ATTACKS AGAINST HUMAN RIGHTS DEFENDERS, JOURNALISTS AND VICTIMS' FAMILIES

In reference to the Committee's LOIPR paragraph 28, attacks against human rights defenders in Thailand, especially those exposing torture, ill-treatment and enforced disappearances, have escalated. These defenders face both physical and online threats, strategic lawsuits against public participation (SLAPPs), and systematic harassment. Women human rights defenders such as Anchana Heemena, Angkhana Neelapajit, and Pornpen Khongkajornkiat,⁷¹ have also been targeted by coordinated online campaigns aimed at discrediting their work. Despite their relentless advocacy for accountability, they continue to endure orchestrated defamation attempts.

The following cases, although not exhaustive, illustrate the state's reprisal against defenders, journalists and the victims' relatives committed to exposing human rights violations, painting a troubling picture of ongoing harassment, intimidation, and violence they face

⁷¹ Isranews, UN ชี้รัฐไทย แจงข้อเท็จจริงปม'ไอโอโจมตี "อังคณา-อัญชณา" UN urges Thai government to clarify facts regarding IO attack on "Angkhana-Anchana.", 29 October 2023, <https://www.thaipost.net/x-cite-news/475344>; ศูนย์ข่าวภาคใต้. ยูเอ็นชี้ไทยสอบ "ไอโอสีดำ" คุกคาม "อังคณา-นักสิทธิมนุษยชน" UN urges Thailand to investigate "black IO" harassing "Angkhana-human rights activist", 5 November 2017. <https://www.isranews.org/content-page/item/60923-dirty.html>

The ongoing trial of independent journalist **Asmadee Bueheng** and bereaved mother **Maeda Sani** has become a stark example of judicial harassment against those seeking justice for victims of extrajudicial killings in Thailand’s southern provinces. The charges against Asmadee and Maeda stem from an incident on 28 April 2023, when military personnel killed Maeda’s son, Haisam Samae, during a security operation. His body was taken to Pattani Hospital for an autopsy, but under Islamic law, burial must occur within 24 hours. Maeda requested the immediate release of her son’s body to fulfill these religious obligations. Asmadee, present as an observer and journalist documenting state violence, was also accused of obstructing officials during this process. Authorities claimed that the actions of Maeda and Asmadee delayed the identification and fingerprinting necessary for the investigation into Haisam’s death.

The case, set for witness hearings from 11–13 December 2024 in the Pattani Provincial Court is emblematic of a pattern of judicial harassment used to silence those who challenge state abuses, particularly in Thailand’s conflict-ridden Southern Border Provinces. The court’s decision will likely have significant repercussions for freedom of expression and the ability of families to seek justice for victims of extrajudicial killings. By charging Maeda—a grieving mother simply seeking to bury her son in accordance with her religious customs—and Asmadee, a journalist committed to exposing human rights violations, state authorities appear to be weaponizing the legal system to deter others from pursuing similar paths of advocacy.

Human rights lawyer Athiwat Saengkui has emphasized that this trial should be subject to public scrutiny, as it sets a dangerous precedent for how the state can suppress critical voices. He highlighted that the excessive powers granted to state officials under martial law and the Emergency Decree have fostered a culture of impunity in Thailand’s southern provinces, where extrajudicial killings often go unchecked.⁷²

For Asmadee, the impact of the charges extends beyond the courtroom. His reputation as a journalist within his community has been damaged, straining relationships in a region where Muslims and Buddhists coexist. He views the legal action as an attempt to suppress the media’s ability to report on state abuses, undermining the public’s right to access truthful information in regions marked by conflict and state violence.

This case underscores the dire consequences of judicial harassment in Thailand, where those who stand up against state violence—whether as journalists, human rights defenders, or grieving family members—are systematically targeted. Rather than delivering justice for the families of extrajudicial killing victims, the state’s legal actions deepen their suffering, raising urgent concerns about the need for judicial reforms and greater oversight of state power.

⁷² Protection International, Pattani Provincial Court Schedules Witness Hearings from 11–13 December 2024 in the Case of “Asmadee Bueheng,” an Independent Journalist and Human Rights Defender Focused on Community and Environmental Rights, and the Mother of a Man Extrajudicially Killed by State Officials, 8 September 2024

On 13 March 2023, the Department of Special Investigation (DSI) executed a search warrant at the home of Mr. Zahri Jehlong (Zahri Ishak),⁷³ president of the Brave Husbands Club (ชมรมพ่อบ้านใจกล้า). Zahri had previously initiated fundraising efforts under the club's name, purportedly to support the families of those who were extrajudicially killed or tortured. The DSI accused Zahri of misusing some of the funds for activities unrelated to the cause, which led to internal disputes and a shift in the collection of donations under the names of deceased individuals' relatives. While the charges focus on financial misconduct, this case is seen by many as part of a broader effort to stifle the activities of HRDs by framing legitimate humanitarian efforts as criminal actions.

In another incident, on 15 March 2023, journalists **Mr. Manawari Nako and Mr. Muhammad Hafizi Salah** from Wartani Media Office were summoned by police. They faced charges of obstructing officers in their duties after they live-streamed the aftermath of a security operation in Yala Province that resulted in the death of Mr. Ibrahim Salae on 21 February 2023. Authorities claimed the live broadcast incited local residents, which allegedly hindered officers from completing their duties. This case underscores how media reporting on state violence is increasingly criminalized, with journalists facing charges simply for documenting events that challenge the official narrative.

Human rights defender and community leader, Mr. **Arfan Wattana**, was summoned to Su-ngai Padi Police Station on 16 March 2023 for allegedly leading a crowd to obstruct police officers attempting to exhume the body of Mr. Yahri Dueloh, a victim of transnational enforced disappearance. By pursuing charges against Arfan, authorities have drawn criticism for using legal avenues to harass activists who seek justice for victims of state violence and extrajudicial killings.

These cases involving Zahri, Manawari, Muhammad, and Arfan have sparked reactions on social media and from various organizations, with many accusing the state of engaging in judicial harassment. Authorities, however, maintain that their actions are lawful and necessary to maintain peace and order. They argue that such searches, summonses, and prosecutions are routine legal procedures and do not necessarily imply guilt. Nevertheless, the targeting of HRDs in this manner raises serious concerns about the state's use of legal mechanisms to silence dissent and prevent the exposure of human rights violations.

Alarming, defenders associated with human rights groups supporting victims or torture, especially in the Sourther Border Provinces, such as CrCF and the Duay Jai Group, are increasingly at risk. One HRD affiliated with Duay Jai Group was murdered on 25 June 2024, and other two were arrested on 9 July 2024 under Martial Law (see below).

⁷³ Isranews, ศูนย์ข่าวภาคใต้. แจงอิน! ปมหมายเรียก-ค้นบ้าน “สื่อวาร์ตานิ—พ่อบ้านใจกล้า—สกัดขุดศพยาหรี” Explained in detail! Issue of summons and search of the house of “Wartani Media—Brave Husbands Club—Obstructing the Exhumation of Yahri’s Body.” 15 September 2024 <https://isranews.org/article/south-news/south-slide/117030-isocexplaintani.html>

On 25 June 2024, anti-torture activist **Roning Dolah**⁷⁴ from Pattani province in southern Thailand, was brutally murdered in his home by undercover hitmen. He was shot dead in front of his family, including his seven-year-old daughter, leaving them terrified and devastated, just one day before the International Day of Support of Victims of Torture. The killing of Roning, the household's breadwinner, sent shockwaves through the local and human rights communities.

Roning Dolah had been arrested and detained by Thai security forces on five separate occasions between 2007 and 2017. During these detentions, he was subjected to various forms of physical and psychological torture, along with other ill-treatment. After his eventual release, Roning was able to reintegrate into society with the support of the Duay Jai Group, a local organisation supporting torture victims. He continued his work as a human rights defender with the Duay Jai Group, providing support to torture victims who suffered similar abuses.

In the wake of his murder, the investigation into Roning's death has been marred by inconsistencies, leading civil society organisations, including the Duay Jai Group, to raise serious concerns. Key questions have emerged about the handling of evidence, particularly regarding the number of bullet cartridges recovered at the crime scene. The Internal Security Operations Command (ISOC) Region 4 Forward reported finding eight cartridges, while the family, who photographed the scene, counted 28. Additionally, the authorities' account of the bullets and gun types conflicted with the evidence collected by the family. The official claim that the assailants approached the house from the front was also disputed by the family, who confirmed that the attackers came from the rear, where a military camp is located.

The discrepancies in the investigation have raised suspicions of possible negligence or collusion. In response to Roning's killing, the Chair of UN Voluntary Fund for Victims of Torture issued a letter on 9 July 2024 expressing condolences and alarm over the global trend of shrinking civic space and increasing attacks on human rights defenders. Our organisations call on the Thai government to conduct a prompt, thorough, effective, independent, impartial, and transparent investigation into Roning's murder to bring those responsible to justice. Roning's family should receive full compensation for the physical, mental, economic, and social harm they have endured.

Recommendations

- Establish robust protections for human rights defenders, journalists, and civil society organizations working on issues related to torture and enforced disappearance including by creating mechanisms to report and address threats or violence against them and adopting a law on the protection of human rights defenders

⁷⁴ CrCF, Duay Jai Group, & ICJ, 20 Years of Human Rights Crisis in the Southern Border Provinces of Thailand, 12 July 2024; OMCT-FIDH, Thailand: Killing of prominent Human rights defender Roning Dolah, 10 July 2024, available at: <https://www.omct.org/en/resources/urgent-interventions/thailand-killing-of-prominent-human-rights-defender-roning-dolah>

- Repeal or amend laws that are frequently used to target activists, such as criminal defamation laws, and ensure that defenders can carry out their work without fear of reprisal.
- Conduct prompt and transparent investigations into any abuse or attack against human rights defenders targeted for their work and hold perpetrators accountable.

ANNEX: CASE STUDIES

Torture and Ill-treatment Cases

*Rittirong Chuenjit*⁷⁵

On February 28, 2009, Rittirong, then a 12th-grade student, was stopped by police officers while riding a motorcycle in Prachinburi. The officers instructed him to follow them to the police station, where he was arrested and tortured into confessing to a theft he did not commit. His physical resemblance to the real perpetrator reportedly led to his arrest for the alleged theft of a gold necklace. Despite his family's efforts to file complaints, the police repeatedly refused to accept them. When the case was eventually referred to the National Anti-Corruption Commission (NACC) for investigation, it remained stalled for over six years. Despite 18 follow-ups by the family, the case saw no progress, with the only response being that it was "pending". Ultimately, the NACC concluded that there was no basis for the crime, though it was later revealed that false evidence had been fabricated to protect the government officials involved.

On June 10, 2015, with legal assistance from CrCF, Rittirong's family filed a criminal lawsuit. The trial lasted nearly three years, during which the court sought to mediate a withdrawal of the lawsuit. On September 28, 2018, the Prachinburi Provincial Court found the two police officers guilty of malfeasance. However, due to their professional status and lack of prior convictions, the court suspended their sentences for two years, resulting in no criminal penalties.

In a separate civil case, filed on May 26, 2017, the family sought damages from the NACC. After more than five years of litigation, the Supreme Court ordered the Royal Thai Police to compensate the family with 3.38 million, plus interest. However, on December 20, 2023, the Court of Appeal reduced this amount to 380,000 baht, citing that the family had previously received 4 million baht through settlement negotiations with the officers.

*Sam Roi Yot case*⁷⁶

On 26 July 2016, two foreign nationals, both renowned boxers, were assaulted and robbed by three individuals in Sam Roi Yot District, Prachuap Khiri Khan. Following their report to the police, Mr. Nattawat Thananthikanchana (James Lo), 19, was arrested without a warrant on 1 August 2016 based on his absence from home on the night of the incident. He was arrested before an

⁷⁵ Rittirong Chuenjit. (n.d.) Cross Cultural Foundation. <https://crcfthailand.org/case-library/rittirong-chuenjit/>; also see Amnesty International, Stop torture by authority: The bill is needed to protect the victims of torture, 7 July 2017, available at: <https://www.amnesty.or.th/en/latest/blog/13/>

⁷⁶ The three youth (Sam Roi Yot) case, Cross Cultural Foundation. <https://crcfthailand.org/case-library/three-youth/>, 25 July 2016; Asian Human Rights Commission, Thailand: torture case in Prachuap Khiri Khan needs investigation and progress, 27 October 2016, available at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-127-2016/>

official warrant was issued. Despite alibi evidence from CCTV footage, he was allegedly tortured into confessing. Under duress, Mr. Nattawat implicated Saranyu Sainamkhieo (Man) and Apichart Silamud (James Nong Khem), who were similarly arrested and allegedly tortured. CrCF provided legal representation for all three accused.

On 19 September 2018, the Court of First Instance convicted the three youths of armed robbery, sentencing them to 18 years in prison, later reducing Mr. Nattawat's sentence to 12 years due to his coerced confession. The defendants appealed, and on January 20, 2020, the Court of Appeal reversed the verdict, citing a lack of corroborating evidence, including CCTV footage and DNA that did not match the accused. The confession, deemed unreliable, was the prosecution's sole evidence. The prosecutor did not appeal, and the case was dismissed by the Hua Hin Provincial Court on August 25, 2021.

*Surat Puekpandon*⁷⁷

On 23 October 2019, police officers raided Mr. Surat Puekpandon's home, brutally assaulting him and leaving him unconscious. His family was unaware of his whereabouts until he was later admitted to Somdech Phra Sangkharat 19 Hospital in critical condition, suffering from multiple injuries. Mr. Surat remained hospitalized for over five weeks and, although his condition improved, he continues to suffer from severe physical and psychological aftereffects.

On the same day as the assault, Mr. Kampol Sueadao, Mr. Surat's uncle and a witness to the attack, filed a complaint to locate his nephew and hold those responsible accountable. Despite this, no immediate action was taken. Later, a fact-finding committee was formed to investigate the police's use of violence in this case. Criminal case number 35/2563 was initiated at Tha Muang Police Station on June 2, 2020. However, for more than two years, the case involving allegations of torture by police officers to extract a confession, remained stalled with the prosecutor. No indictments or summons had been issued to the accused.

On 18 January 2022, Mr. Surat formally requested the OAG to expedite the case, urging that the officers responsible for his torture be prosecuted without delay. While a spokesperson for the Attorney General confirmed that the case was under consideration by the OAG Region 7, no substantial progress has been made to date.

⁷⁷ Surat Puekpandon. Cross Cultural Foundation, 8 September 2022, <https://crcfthailand.org/%E0%B9%81%E0%B8%97%E0%B9%87%E0%B8%81/%e0%b8%aa%e0%b8%b8%e0%b8%a3%e0%b8%b1%e0%b8%8a-%e0%b9%80%e0%b8%9c%e0%b8%b7%e0%b8%ad%e0%b8%81%e0%b8%9e%e0%b8%b1%e0%b8%99%e0%b8%98%e0%b9%8c%e0%b8%94%e0%b9%88%e0%b8%ad%e0%b8%99/>

*Attasith Nussa case*⁷⁸:

On 29 October 2021, Mr. Attasith Nussa attended a candlelight vigil to mourn the death of Warit Samnoi, a 15-year-old who was fatally shot during a rally in front of Din Daeng Police Station. Around 6:00 p.m., while participating in the ceremony, Mr. Attasith was violently arrested by plainclothes and uniformed police officers. A video recording⁷⁹ shows him being pinned down to the ground, with an officer pressing his neck, kicking, and punching him. He was also handcuffed so tightly that his hands became swollen. Mr. Attasith was then taken to the police station.

During the interrogation, a police officer in a white shirt threatened to kill him by making it look like an accident. While questioning him about allegations of setting fire to a shrine during the protest or shooting at the police, the same police officer assaulted Mr. Attasith by slamming his head into a sofa, choking him, and hitting him with a baton. A junior police officer witnessed the entire event without intervening. Mr. Attasith was released on the following day, on 30 October.

Mr. Attasith, represented by CrCF, later filed a lawsuit under the Act on Tortious Liability of Officials B.E. 2539 (1996) against the Royal Thai Police seeking over 3.3 million baht in compensation. However, on 26 August 2024, the Bangkok South Civil Court dismissed the case. While medical reports confirmed Mr. Attasith's injuries, the court found insufficient evidence to prove that the injuries resulted from torture. Despite the availability of CCTV footage and eyewitnesses during the interrogation, the court ruled that the injuries could not be conclusively attributed to police actions. Mr. Attasith plans to appeal the ruling, continuing his fight for justice.

Since the incident, Mr. Attasith has actively sought justice through multiple channels, including filing complaints with the House of Representatives' Committee on Law, Justice, and Human Rights, and the Department of Special Investigation (DSI), urging a thorough investigation. Despite initiating a criminal case at Din Daeng Police Station, no significant progress has been made. Additionally, on February 7, 2024, Mr. Attasith submitted a complaint to the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.⁸⁰

⁷⁸ Attasith Nussa, Cross Cultural Foundation, (2022, September 5), <https://crcthailand.org/case-library/attasit-nussa/>; also see Al Jazeera, Thai protesters recount alleged torture under police custody, 6 November 2021, available at: <https://www.aljazeera.com/news/2021/11/6/thai-protesters-allege-torture-at-hands-of-police>

⁷⁹ The video clip is available here: https://drive.google.com/file/d/1IO_DqDuj2I2GKRp_eK71BM2EI0v2xRbB/view?usp=sharing

⁸⁰ CrCF-ICJ, Letter of Allegations Regarding the Alleged Police Torture of Mr. Attasith Nussa (Thailand) (Communication to Dr. Alice Jill Edwards, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment), 7 February 2024

*Sexual violence case in Pathumthani province*⁸¹

On 23 November 2023, police officers from Pathumthani Provincial Police station arrested two persons, one male and one female, on charges of possessing ketamine. The officers coerced the female arrested into withdrawing approximately 300,000 baht from an ATM in exchange for reducing the charges. They also sexually assaulted the female suspect.

A formal complaint regarding the case was filed with the NHRCT. After thoroughly reviewing the evidence, relevant laws, and human rights standards, the NHRCT concluded that the actions of police officers from the Pathumthani Provincial Police Station—including the undercover officer who sexually assaulted the female suspect—amounted to severe human rights violations. The police had detained the two victims separately, driving them to various locations and parking in dark areas while coercing them for cooperation. This coordinated effort caused the victims to momentarily disappear, qualifying as a short-term enforced disappearance under international human rights standards.

In addition, the undercover officer raped the female victim and withdrew money from her account, with indications that the police were complicit in these actions. These offenses represent severe violations of the victim's rights, constituting sexual and property crimes under the Criminal Code. The public prosecutor has since filed charges against both the undercover agent and the police officer.

*Sopon Surariddhidhamrong*⁸²

Mr. Sopon Surariddhidhamrong, a leader of the pro-democracy group Mok Luang Rim Nam, has been a staunch advocate for human rights, including issues related to enforced disappearance and labor rights. Since 2020, he has faced charges in 14 political cases, four of which are related to Article 112. He was first imprisoned in May 2022 after being convicted under Article 112, launching a 20-day hunger strike demanding bail, which was granted after 29 days in custody. Upon release, he was placed under 24-hour house arrest for seven months.

In 2023, his bail was revoked after he participated in a protest during the APEC 2022 meeting, which the court deemed a violation of his bail terms. Mr. Sopon responded with a 14-day sleep strike, advocating for the right to bail for himself and other political detainees. On 23 August 2023,

⁸¹ NHRCT Press Release, 21/2567, กสม. ตรวจสอบกรณีร้องเรียนเจ้าหน้าที่ตำรวจปล่อยให้มีการเรียกเงินและกระทำชำเราผู้ต้องหา ซึ่งมีความผิดตาม พ.ร.บ. บังคับการทรมานฯ และ ดร. สอบสวนข้อเท็จจริงและเยียวยาผู้เสียหาย (NHRCT investigates complaints about police officers allowing extortion and rape of suspects, recommends police investigate facts and compensate victims), 2024, available at: <https://prachatai.com/journal/2024/06/109647>

⁸² OMCT, Thailand: Arbitrary detention and judicial harassment of Sopon Surariddhidhamrong and Natthanit Duangmusit, 13 January 2023, available at: <https://www.omct.org/en/resources/urgent-interventions/thailand-arbitrary-detention-and-judicial-harassment-of-sopon-surariddhidhamrong-and-natthanit-duangmusit>; Free Political Prisoners, Sopon Surariddhidhamrong, 24 August 2023, available at: <https://freedombridge.network/en/political-prisoners/sopon/>

he was sentenced to three years and six months for allegedly insulting Queen Suthida during a 2022 protest. Despite multiple bail requests, he remains in prison.

On 4 September 2023, Mr. Sapon was brought to the Thonburi Criminal Court in shackles, which CrCF argued violated his dignity. CrCF's Director, Ms. Pornpen Khongkachonkiet, filed a petition to halt the use of shackles under Section 26 of the Anti-Torture and Enforced Disappearance Act. The court dismissed the petition, justifying the restraints under regulations of the Penitentiary Act.

CrCF argues that using shackles on a pre-trial detainee undermines the presumption of innocence and violates the legal protections established under Section 6 of the Anti-Torture Act. The Department of Corrections' decision to impose such restraints, despite Mr. Sapon's lack of intent to flee, highlights a disregard for his human dignity. The court's dismissal of the petition, based on problematic regulations, represents a serious breach of the Anti-Torture Act and international conventions, as emphasized in the Committee's List of Issues Prior to Reporting (LOIPR) paragraph 16.

*Y Quynh Bdap*⁸³

Mr. Y Quynh Bdap, a Vietnamese refugee and religious freedom activist, co-founded Montagnards Stand for Justice (MSFJ). He fled to Thailand in 2018 and was granted refugee status by UNHCR. On June 11, 2024, Thai police arrested Mr. Y Quynh, citing an extradition request from Vietnam, where he had been convicted of terrorism charges related to the 2023 Dak Lak Province riots. Mr. Y Quynh denies involvement in the incident, maintaining that his activism is peaceful and non-violent.

During an extradition hearing on August 19, 2024, at the Bangkok Ratchada Criminal Court, Mr. Y Quynh was presented in foot cuffs and a prisoner's uniform, raising concerns about the violation of his human dignity.

On August 30, 2024, CrCF, invoking Section 26 of the Anti-Torture Act, petitioned the court to halt the use of restraints on Mr. Y Quynh, arguing they violated Section 21(4) of the Penitentiary Act and constituted cruel, inhumane, or degrading treatment under Section 6 of the Anti-Torture Act. CrCF referenced a 2009 Administrative Court ruling, where shackling a Malaysian national was deemed a violation of physical freedom and human dignity, contravening the Thai Constitution and international human rights standards.⁸⁴ Despite this, the court dismissed the

⁸³ OMCT-FIDH, Thailand: Arbitrary arrest and imminent risk of extradition of Vietnamese human rights defender Y Quynh Bdap, 04 July 2024, <https://www.omct.org/en/resources/urgent-interventions/thailand-arbitrary-arrest-and-imminent-risk-of-extradition-of-vietnamese-human-rights-defender-and-un-recognised-refugee-y-quynh-bdap>; OMCT, Thailand: Concerns over the potential extradition of Y Quynh Bdap, 29 August 2024, <https://www.omct.org/en/resources/individual-cases/thailand-concerns-over-the-potential-extradition-of-y-quynh-bdap>; Y Quynh Bdap, 17 July 2024, Cross Cultural Foundation, available at: <https://crcfthailand.org/case-library/mr-y-quynh-bdap/>

⁸⁴ Black Case No. 747/2007 and Red Case No. 1438/2009

petition, ruling that the use of restraints was within state officials' discretion under the Penitentiary Act to prevent escape or serious incidents. CrCF plans to appeal this decision.

Further concerns have been raised over his potential extradition to Viet Nam, where he may face torture, inhumane treatment, and enforced disappearance. At the first hearing on 15 July 2024, trial observers included representatives from civil society organisations, the National Human Rights Commission of Thailand, and international diplomats. Nine high-ranking Vietnamese state security officials were also present, indicating strong interest from Vietnam.

Mr. Y Quynh's legal team faced several procedural obstacles, including late access to the extradition request and restricted visitation hours, limiting their ability to prepare adequately for the inquiry. The court concluded witness examination on 2 September 2024 and set a ruling date for 30 September 2024.

Most recently, on 30 September 2024, the Criminal Court of Thailand ordered the extradition of Mr. Y Quynh Bdap. After the verdict was read, Mr. Bdap's lawyer informed the court that he will appeal the decision. The court ordered Mr. Bdap to be placed in detention while he awaits the Royal Thai Government to make a final decision on his extradition.

Extraditing Mr. Y Quynh to Vietnam would be a violation of Thailand's obligations under the Convention against Torture (UNCAT) and the International Covenant on Civil and Political Rights (ICCPR), which prohibit the refoulement of people to a country where they are likely to face torture. Further, Mr. Bdap's extradition is one of the first significant tests of Section 13 of Thailand's Anti-Torture and Enforced Disappearance Act, which prohibits the extradition of individuals to countries where they may face torture, ill-treatment, or enforced disappearance. Human rights experts, including officials from the NHRCT and UN experts, have raised alarm over the potential human rights violations if Mr. Y Quynh were to be extradited to Vietnam.

Torture, Ill-treatment and Deaths in the Context of Military Conscription

*Private Kittithorn Wiangbanpot*⁸⁵

Private Kittithorn Wiangbanpot, a conscript in the 1/66th group at Mengrai Maharat Camp in Chiang Rai Province, was drafted on 15 May 2023. On 14 July 2023, his wife found him in a severely deteriorated state, suffering from fever, lethargy, and alternating hot and cold symptoms. Despite reportedly being ill for days and having requested medical assistance, he had not received

⁸⁵ CrCF, Kittithorn Wiangbanpot, retrieved September 15, 2024 from crcfthailand.org/แท็ก/กิตติชน-เวียงบรรพต/; 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/2024/09/13/56624/?fbclid=IwY2xjawFXsdJleHRuA2FlbQIxMAABHQfv_dAPt8PoW9t5XseCq_HwTBXtByyLN-gmgRiNRSVaczaP9ySpktgx1A_aem_mv6qzejH96uLsmQxEkmDoQ

proper medical treatment from the camp. Concerned for his health, his wife took him to Mengrai Maharat Camp Hospital, but tragically, Private Kittithorn died on 16 July 2023 at Chiang Rai Prachanukroh Hospital due to a blood infection.

On 9 December 2024, the prosecutor charged two training instructors, a lieutenant and a sergeant major, under Section 6 of the Anti-Torture and Enforced Disappearance Act for ill-treatment that led to his death. During court proceedings, the defendants denied all charges and petitioned the Constitutional Court, questioning whether prosecuting military personnel under this Act in civilian court contradicted the Constitution B.E. 2560 (2017), particularly regarding military jurisdiction. On 27 August 2024, the Constitutional Court, by a narrow margin (5-4), declined to accept the petition, ruling that the matter fell under jurisdictional issues between courts.⁸⁶

This is the first case in which the public prosecutor has investigated and indicted under the Anti-Torture and Enforced Disappearance Act, with Private Kittithorn's family acting as co-plaintiffs.

*Sergeant Pakorn Niemrat*⁸⁷

Mr. Pakorn Niemrat passed the exam to become a sergeant in the Border Patrol Police (BPP) and began training at Camp Than Muk in Songkhla Province on 1 October 2023. On 10 October, he collapsed during a 10-kilometer run. Despite his condition, his instructor forced fellow trainees to carry him for the remaining distance. He was later taken to a basketball court and, eventually, to Sadao Hospital, where he passed away.

Following his death, Mr. Pakorn's mother sought justice, filing complaints and calling for accountability. The Criminal Court for Corruption and Misconduct in Songkhla dismissed the case, citing insufficient evidence to determine responsibility for his death. After 10 months, no one had been held accountable.

CrCF later provided legal assistance, helping his mother file a formal complaint with the Anti-Torture and Enforced Disappearance Centre under the Office of the Attorney General in Songkhla. The complaint seeks prosecution of the involved officers under Sections 5 and 6 of the Anti-Torture and Enforced Disappearance Act.

⁸⁶ Isranews. (2024, October 3). ศาลรบ.มีมติ 5:4 ไม่รับคำร้องกรณีฟ้องทหารที่ศาลพลเรือนขัดรัฐธรรมนูญหรือไม่ The Constitutional Court ruled 5:4 not to accept the petition on whether the lawsuit against the military in the civilian court violated the constitution or not. Isranews. <https://isranews.org/article/isranews-news/131244-isranews-1000-1000-370.html>

⁸⁷ CrCF, แม่ของปรกรณ์ เนียมรัตน์ นักเรียนนายสิบตำรวจ เสียชีวิตระหว่างการฝึก เมื่อปี 2566 เข้าแจ้งความร้องทุกข์ต่อศูนย์ป้องกันอาชญากรรมฯ เพื่อขอให้นำตัวผู้กระทำความผิดมาลงโทษให้ถึงที่สุด (The mother of Pakorn Niemrat, a police cadet who died during training in 2023, has filed a complaint with the Center for the Prevention of Torture to bring the perpetrators to full punishment, 28 August 2024, available at: <http://crcfthailand.org/2024/08/28/56373/>)

*Private Wichian Puaksom*⁸⁸

Private Wichian Puaksom was tortured to death inside the Krom Luang Narathiwat Rajanagarindra Camp, Cho Airong District, Narathiwat Province in June 2011. Private Wichian, a master's degree student at Thammasat University, had enlisted in the military but fled the training camp shortly after joining. According to reports, he was punished by 9 new recruits, including Lt. Phuri, who ordered him to strip down to his underwear and then dragged him across the cement floor, resulting in two long wounds on his back. Following this, Wichian was gang-stomped multiple times. He was then tied up with a white cloth, paraded publicly among his fellow soldiers, and forced to sit on ice cubes while eating. During this punishment, he was also beaten with bamboo sticks and compelled to perform frog jumps and push-ups. He later died as a result of his injuries.

His family, Ms. Narisara Puaksom and CrCF lawyers filed a criminal lawsuit against Lt. Phuri Pherksophon and nine others for the offense of being an official who performs or neglects to perform duties improperly, being a soldier who does not follow the orders of a commanding *officer and* killing another person without intention.

On 24 November 2023, the military court issued its verdicts for the defendants. Lt. Phuri Pherksophon, the first defendant, was sentenced to 2 years in prison. The second defendant received a 4-year sentence, the third was sentenced to 3 years, while the fourth through fifth and seventh through ninth defendants each received 2 years in prison. The sixth defendant had passed away, and the tenth defendant had fled, as indicated by the military court's arrest warrant.

The court martial procedure is final because it does not permit any appeals. Thus, the decision marks the conclusion of Private Wichian's case, which has been contested for 13 years. The next step involves securing compensation from the army. Specifically, the army is expected to ensure the payment of 7 million baht from the defendants to Wichien's family for the civil case.

*Second Lieutenant Sanan Thongdeenok case*⁸⁹:

Second Lieutenant Sanan Thongdeenok died during training for the Royal Guards (UKBT) on 6 June 2015. He was subjected to excessive physical demands, forced to swim continuously beyond his physical limits, ultimately leading to his drowning due to negligence on the part of the head instructor, who failed to provide timely assistance.

⁸⁸ Wichian Puaksom. (2012, May 24). Cross Cultural Foundation. <https://crcfthailand.org/case-library/wichian-puaksom/>; Human Rights Watch, Thailand: Army Conscript Beaten to Death, 4 April 2017, available at: <https://www.hrw.org/news/2017/04/05/thailand-army-conscript-beaten-death>

⁸⁹ CrCF, Sanan Thongdeenok, 18 April 2015, <https://crcfthailand.org/case-library/sanan-thongdeenok/>; CrCF, ศาลพิงสืบพยานโจทก์ 4 ปาก คดีฆาตกร-กรรพา รด.สนาม ฟ้องกองทัพบก (Civil Court examines 4 plaintiff witnesses in case of mother and wife of Lt. Sanan suing the Royal Thai Army), 18 June 2017, available at: <https://crcfthailand.org/2017/06/13/9743/>; Prachatai, Thai soldier allegedly dies from ill-treatment during training, 7 June 2017, available at: <https://prachataienglish.com/node/6236>

CrCF supported Ms. Thanyarat Wannasathit, Lieutenant Sanan's wife, in filing a tort lawsuit against the Royal Thai Army. Ms. Wan Thongdeenok, Sanan's mother and plaintiff No. 1, and Ms. Thanyarat Wannasathit, plaintiff No. 2, jointly pursued compensation under the Act on Tortious Liability of Officials B.E. 2539 (1996) for the tortious acts committed by the Army.

On August 2, 2022, the Civil Court in Ratchadaphisek Road, Bangkok, upheld the Supreme Court's earlier decision ordering the Royal Thai Army to compensate the family of Second Lieutenant Sanan. The court awarded Ms. Wan Thongdeenok and Ms. Thanyarat Wannasathit a total of 11.8 million baht in principal damages.⁹⁰ When accounting for interest accumulated over seven years, the total compensation reached 17 million baht.

The Supreme Court determined that the head instructor of the Royal Thai Army's training unit acted negligently by compelling Lieutenant Sanan to continue swimming despite his evident inability to do so. This negligence was deemed preventable and not an unavoidable occurrence, thereby making the Royal Thai Army liable under Section 5, Paragraph 1 of the Act on Tortious Liability of Officials. This ruling builds upon previous judgments from the Court of Appeals that have been addressing this case since 2020.

Sergeant Kittikorn Suthiraphan case⁹¹:

Sergeant Kittikorn Suthiraphan, a 25-year-old soldier assigned to the 23rd Regiment, 3rd Infantry Battalion, Wirawat Yothin Camp, 25th Military Circle, was arrested under the Surin Provincial Military Court's warrant No. 14/2558, requested on 8 August 2015. After his arrest on January 30, 2016, he was detained at Surin City Police Station and subsequently held at the 25th Military Circle Prison, Wirawat Yothin Camp starting 1 February 2016. He died in custody on 21 February 2016.

CrCF provided legal support to Sergeant Kittikorn's family, arranging for a lawyer to oversee the death inquiry at the Surin Provincial Court. An autopsy concluded that his death resulted from a severe head injury and a ruptured stomach, allegedly due to a physical assault by four volunteer soldiers, who acted unlawfully.

Sergeant Kittikorn's mother filed a civil lawsuit against the Royal Thai Army, claiming that military officers responsible for her son's custody had tortured him, causing severe injuries, and neglected to provide timely medical treatment, ultimately leading to his death. Both the Court of First Instance and the Court of Appeal ruled in favor of the plaintiff, ordering the Royal Thai Army to pay damages.

⁹⁰ Bangkok Post, Army must pay B17m to family of drowned soldier, 3 August 2022, <https://www.bangkokpost.com/thailand/general/2360521/army-must-pay-b17m-to-family-of-drowned-soldier>

⁹¹ CrCF, คดีทักท้วง สุธีรพันธ์, 31 January 2016, available at: <https://crcthailand.org/case-library/kittikorn-suthiraphan/>; The Nation Thailand, Army told to pay mother of slain son, 22 February 2018, available at: <https://www.nationthailand.com/in-focus/30339477>

The courts awarded 120,000 baht for funeral expenses, deducting 50,000 baht already paid by the defendant, resulting in an additional 70,000 baht owed. The plaintiff had claimed actual funeral expenses of 21,225 baht and 1,800,000 baht for loss of support due to her son's death. The Supreme Court declined to hear an appeal.

The Supreme Court's ruling sets a significant precedent, affirming that the state must be held accountable when its officials commit offenses while on duty. It emphasizes the necessity for the state to prosecute such cases promptly to prevent impunity and ensure justice. The criminal case is currently being managed by the National Anti-Corruption Commission.

Death in Custody Cases

*Anan Koetkaew*⁹²

On 9 November 2015, Mr. Anan Koetkaew was arrested by officers from the Narcotics Suppression Division of the Provincial Police Region 3 in Nakhon Ratchasima Province on allegations of drug-related offenses. Two days later, on 11 November 2015, he was taken into custody at Chokhor Police Station in Nakhon Ratchasima Province. He died on 13 November 2015 while receiving medical treatment at Maharaj Nakhon Ratchasima Hospital, succumbing to severe brain injuries sustained during his time in police custody. The officers involved asserted they were executing their lawful duties at the time of the incident.

The investigation into Mr. Anan's death revealed that, on the day of his arrest, Police Lieutenant Colonel Pathompong Jaiprasert, Police Sergeant Major Chaloemchai Sunjaim, and Police Sergeant Krissana Daengmalang, alongside their team, encountered Mr. Anan Koetkaew and another individual, Mr. Theerapong Sophonsilapan, who appeared to be drug users. Upon conducting a search, both men were found in possession of eight methamphetamine pills each. During the arrest, Mr. Anan attempted to flee during his detention and sustained injuries after stumbling. Officers pursued him and subsequently apprehended him.

On 10 November 2015, while the police officers were instructing Mr. Anan to contact individuals within a drug network, he attempted to escape once more. The officers, aided by a garbage collector, subdued him after a brief struggle, resulting in his falling again, but no visible injuries or bleeding were apprehended. Following the incident, Police Lieutenant Colonel Pathompong and his team transported Mr. Anan and Mr. Theerapong to the investigating officer at Chokhor Police Station.

⁹² CrCF, Anan Koetkaew (in Thai) available at: <https://crcfthailand.org/case-library/an-an-kerdkeow/>; Mr. Anan Koetkaew postmortem examination, Black case No. Chor.3/2559 (2016), Nakhon Ratchasima Provincial Court July 27, 2017

On 11 November 2015, Police Major Viroj Jaeroenplang summoned Mr. Anan to the police station to inform him of the charges and to take his testimony. However, Mr. Anan was found unresponsive. Major Viroj alerted his superiors and emergency medical services, who transported Mr. Anan to the Maharaj Nakhon Ratchasima Hospital, where he ultimately succumbed to his injuries on 13 November 2015.

An autopsy conducted by forensic experts, in conjunction with investigators and prosecutors, determined that the cause of death was severe brain injury resulting from head trauma. The autopsy report, identified as Report No. R.13, corroborated the mother's testimony that her son had been assaulted prior to his death.

In the subsequent inquest, the Nakhon Ratchasima Provincial Court established that Mr. Anan had died at the hospital at 11:10 AM on 13 November 2015, with the cause of death confirmed as severe brain injury due to head trauma. The court's findings indicated that Mr. Anan was arrested by narcotics suppression police officers and sustained injuries consistent with assault. However, the inquest did not yield definitive evidence identifying the individual responsible for the assault.

The Cross-Cultural Foundation (CrCF) provided legal assistance to Mr. Anan's family, enabling them to initiate a civil lawsuit against the Royal Thai Police. Ultimately, the family opted for a negotiated settlement with the seven police officers implicated in the incident, who collectively paid approximately 7 million THB in compensation. Consequently, the civil lawsuit has been resolved.

Thawatchai Wena

Mr. Thawatchai Wena died under suspicious circumstances while in custody at Prachuap Khiri Khan Provincial Prison on charges of drunk driving. He was admitted to the prison on 28 November 2018 and was found deceased the following day. In the aftermath, Mr. Thawatchai's family sought legal assistance from the Cross-Cultural Foundation (CrCF) to pursue justice. The CrCF coordinated with forensic experts from the Central Institute of Forensic Science to conduct an autopsy.

The autopsy revealed multiple contusions and abrasions on Mr. Thawatchai's body, raising significant concerns regarding the circumstances of his death. In response, the Prachuap Khiri Khan Provincial Ombudsman Center mandated an investigation into the incident. The prison's internal investigation erroneously concluded that Mr. Thawatchai's death was due to severe alcohol withdrawal.

Contrarily, the forensic findings from the Ministry of Justice indicated that Mr. Thawatchai had succumbed to cardiac irregularities stemming from chronic alcoholism, alongside multiple blunt-force injuries. These findings were corroborated by CCTV footage and witness testimonies, which suggested that Mr. Thawatchai was physically assaulted by a fellow inmate shortly before his

death. Notably, the alleged assailant was released from prison on 30 November 2018, just one day after Mr. Thawatchai's death. Consequently, appropriate authorities filed a complaint to initiate legal proceedings against the inmate for his alleged role in the assault.

In November 2021,⁹³ the Prachuap Khiri Khan Provincial Court sentenced the inmate to four years' imprisonment for the assault leading to Mr. Thawatchai's death. Subsequently, Mr. Thawatchai's legal representatives, along with his mother, requested access to the indictment and judgment from the assault case for use in the inquest into his death. On 14 December 2021, the court determined that Mr. Thawatchai died while in custody due to physical assault, confirming the inmate's role in his death.

Following this, the CrCF legal team assisted the family in seeking compensation under the Damages for Injured Persons and Compensation and Expenses for the Accused in Criminal Cases Act, as well as pursuing a civil suit against the Correctional Department for its failure to prevent such incidents within its facility. However, the Subcommittee on Consideration of Compensation dismissed the family's request on the grounds that their application, filed on 29 March 2022, was beyond the one-year statutory limit from the "date of knowledge of the offense."

Abdulloh Esomuso⁹⁴

On 21 July 2019, Mr. Abdulloh Esomuso, a suspected insurgent, was discovered unconscious in the Inquiry Unit at Ingkhayutthaborihan Military Camp in Pattani Province. Initially, he was transported to the camp's medical facility for emergency treatment and subsequently transferred to the Intensive Care Unit (ICU) of Pattani Provincial Hospital due to the deterioration of his condition. Medical reports indicated a significant accumulation of cerebrospinal fluid, resulting in prolonged oxygen deprivation and subsequent cerebral edema. Notably, no visible physical injuries were documented on Mr. Abdulloh's body. The hospital ultimately determined the cause of death to be severe pneumonia and septic shock.

Mr. Abdulloh had been arrested and detained under Martial Law on 20 July 2019, under suspicion of involvement in unspecified insurgent activities. At approximately 16:00, officials from the 44th Special Ranger Task Force conducted a search of his residence in Saiburi District, Pattani Province, and subsequently took him into custody. He was initially processed at Saiburi Police Station for the documentation of his arrest before being transferred to the Inquiry Unit operated by the 43rd Special Ranger Task Force at Ingkhayutthaborihan Military Camp. His relatives were notified the following morning that he had been admitted to the ICU at Pattani Provincial Hospital.

⁹³ See CrCF, Prachuap Khiri Khan Court sets first witness examination on 3-5 November 2021 (in Thai), available at: <https://www.facebook.com/CrCF.Thailand/photos/a.417098988337393/4465427570171161/>

⁹⁴ See <https://crcfthailand.org/case-library/abdulloh-esomuso/>; AP News, Family of Thai Muslim who died in army custody seeks justice, 26 August 2019, available at: <https://apnews.com/general-news-95deed80b02344a792d7455c8063a6ac>

Numerous civil society organisations and individuals from the southern border provinces expressed serious concerns regarding the possibility that Mr. Abdulloh may have been subjected to torture during his detention at the military camp. These concerns align with a broader pattern of alleged human rights abuses reported by civil society organisations in the region.⁹⁵

Concerns arose from civil society organizations regarding the possibility that Mr. Abdulloh had been subjected to torture while detained, as patterns of such human rights violations have been consistently reported in the region. In the subsequent inquiry into Mr. Abdulloh's death, the Songkhla Provincial Prosecutor's Office acted as the petitioner, with the Songkhla Provincial Court overseeing the autopsy and investigation. Mr. Abdulloh's wife, with the assistance of the CrCF and the Muslim Attorney Center Foundation, filed a petition to become a co-petitioner to actively participate in the inquiry process.

In the inquiry into Mr. Abdulloh's death, the Songkhla Provincial Prosecutor's Office acted as the petitioner for the investigation. The Songkhla Provincial Court was responsible for conducting the autopsy and determining the cause of death. Mr. Abdulloh's wife, with legal support from the Cross-Cultural Foundation (CrCF) and the Muslim Attorney Center Foundation, filed a petition to become a co-petitioner to engage actively in the questioning process.

Over 21 witnesses were interrogated, including military personnel from Ingkhayutthaborihan Camp, medical professionals, eyewitnesses, civil society representatives, and members of the Committee on Legal Affairs, Justice, and Human Rights.

On 9 May 2022, the court ruled that the evidence provided by the prosecutor and the legal representatives of Mr. Abdulloh's relatives was insufficient to definitively ascertain the precise circumstances and cause of his death. Consequently, the court could only confirm that the cause of death was attributed to oxygen deprivation leading to cardiac arrest of unknown origin, occurring while he was in the custody of the 43rd Ranger Regiment's Special Task Force at Ingkhayutthaborihan Camp.

The court's findings affirmed prior medical assessments that Mr. Abdulloh experienced cerebral swelling due to oxygen deprivation before succumbing at the hospital in Songkhla. However, the key question raised by the relatives and the public remains whether any individuals were responsible for causing Mr. Abdulloh's lack of oxygen, resulting in his cerebral edema. The court's extensive two-year investigation failed to provide clarity on this critical issue. In light of this, Mr. Abdulloh's relatives have resolved to continue exploring legal avenues to seek justice for his death.⁹⁶

⁹⁵ Thai Lawyers for Human Rights, CSO call for a prompt investigation into the alleged torture of Mr. Abdullah Isomuso, 23 July 2019, available at: <https://tlhr2014.com/en/archives/13118>

⁹⁶ Thairath, 'ไต่สวนการตาย อับดุลเลาะห์ อีซอมูซอ หรือ 'สิทธิมนุษยชน' ส่งไปไม่ถึงในค่ายทหาร? Inquest into the death of Abdulloh Esomuso, or did "human rights" not reach the military camp? (n.d.), available at: <https://plus.thairath.co.th/topic/politics&society/101490>

*Than Zin Oo*⁹⁷

On 13 October 2022, Mr. Than Zin Oo, a Myanmar national, was apprehended by police authorities at Pak Nam Police Station in Ranong Province, under allegations of involvement in a drug-related investigation. While in detention at the police station, Mr. Than Zin Oo experienced convulsions and subsequently lost consciousness, necessitating his transfer to the hospital after four hours of detention. He succumbed to his condition at the hospital on 16 October 2022.

On 1 November 2023, the National Human Rights Commission of Thailand (NHRCT) issued a report concerning Mr. Than Zin Oo's death while in detention. The report concluded that a police officer at Pak Nam Police Station violated the human rights of Mr. Than Zin Oo and his family. The NHRCT recommended that the Royal Thai Police undertake a thorough investigation into the incident and provide appropriate compensation to the victim's family. However, as of the present date, the Royal Thai Police have not extended any compensation nor accepted responsibility for the incident. This event occurred prior to the enactment of the Anti-Torture and Enforced Disappearance Act; nonetheless, it underscores the persistent issues of torture and death in custody, which remain inadequately addressed by relevant authorities.

On 29 February 2024, the Ranong Provincial Court issued an order in an inquest to determine the cause of Mr. Than Zin Oo's death in custody (Case No. 1/256). Mr. Than Zin Oo died in police custody at Ranong Hospital on 16 October 2022, according to the court ruling. The reason and circumstances of death were sepsis and acute bacterial pneumonia which were most likely a consequence of cerebral edema therapy at Ranong Hospital.

The ruling by the Ranong Provincial Court inadequately examined the circumstances surrounding Mr. Than Zin Oo's death. While it identified sepsis and acute bacterial pneumonia as the causes of death, likely resulting from medical treatment, the ruling failed to scrutinize the conditions of his detention or the actions of police officers during the four hours preceding his loss of consciousness at Pak Nam Police Station. This lack of detailed investigation into the deterioration of his health while in official custody raises serious concerns regarding accountability and transparency. It fails to provide insight into whether any misconduct or negligence on the part of authorities contributed to his demise, thereby highlighting systemic issues in addressing deaths occurring in custody.

⁹⁷ CrCF, Thant Zin Oo, 26 October 2022, available at: <http://crcfthailand.org/case-library/thant-zin-oo/>; Human Rights and Development Foundation, Relatives of Myanmar migrant worker filing petition with Royal Thai Police Asking for investigation and legal action against people concerned with the death in custody of a migrant worker at Pak Nam Ranong Police Station, 4 November 2022, available at: <https://www.facebook.com/photo/?fbid=6468400303194743&set=pcb.6468404319861008>

*Mr. Ko Aung Ko*⁹⁸

On 11 January 2024, Mr. Ko Aung Ko, a 37-year-old Burmese migrant worker, was allegedly tortured and killed by Thai military officials in Mae Sot District, Tak Province. A report from Western News on 14 January indicated that Mr. Ko Aung Ko was beaten to death by state officers, although the specific agency responsible—whether rangers, paramilitary, or regular military personnel—remains unverified. He had recently returned to Thailand after working in Myawaddy, Myanmar.

The incident occurred in a region near the Thai-Myanmar border, which is contentious due to the shifting boundaries of the Moei River. Reports suggest attempts were made to designate the crime scene as Myanmar territory, presumably to evade prosecution in Thailand. Nevertheless, witnesses identified the perpetrators as Thai state officials. The Burmese community, along with various non-governmental organisations, has disseminated information widely, increasing pressure on Thai authorities to conduct a comprehensive investigation.

Mr. Ko Aung Ko had fled to Thailand following the military coup in Myanmar and had resided there for over two years. Previously, he was a member of the People's Defense Force (PDF), allied with the Karen National Liberation Army (KNLA), before taking on work as a migrant laborer. At the time of his death, he was part of a community security team tasked with safeguarding Burmese migrant workers.

In the aftermath of his death, conflicting reports surfaced, with some alleging that his family received compensation from the Thai military and remained too fearful to speak publicly. However, sources close to the family contended that, while Thai soldiers had offered compensation to silence the matter, the family declined the payment. Ongoing fears of retaliation persist for both witnesses and relatives. As of September 2024, a Burmese migrant was wrongfully arrested and sentenced to five years in prison for the death of Mr. Ko Aung Ko. A Myanmar-focused civil society organization has reached out to CrCF for legal assistance in appealing the case, in hopes of holding the true perpetrator accountable. This case mirrors the 2014 incident involving two Burmese migrant works accused of murdering two British tourists on Koh Tao Island. The suspects were initially denied access to legal counsel and claimed they were tortured into confessing. Experts in forensics and law criticized the police for mishandling the investigation, citing improper evidence collection, contamination at the crime scene, and the failure to involve forensic

⁹⁸ ထိုင်း မဲဆောက်တွင် မြန်မာနိုင်ငံသား ၁ ဦးကို ထိုင်းလုံခြုံရေး တပ်ဖွဲ့က ရိုက်နှက်မှုကြောင့် သေဆုံးမှု ဖြစ်ပွား In Mae Sot, Thailand, 1 Myanmar national died due to beating by Thai security forces. 14 January 2024, Western News, available at: <https://www.facebook.com/westernnewsagency/posts/pfbid0nmeABtcjph86rBAJZuuyhcf97usEPESHDbsekeqYxGpAKA8C4k8Tc2YocReCRTR7l>

specialists. In 2015, both were convicted of murder and sentenced to death. Although their attempts at appeal were unsuccessful, a Royal Decree in 2020 reduced their sentences to life imprisonment.