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THAILAND

Articles 2, 4, 12, 14, and 16: Enforced disappearances

- *Impunity for enforced disappearances continues*

The Thai government's ongoing failure to conduct prompt, thorough, credible, and impartial investigations into allegations of enforced disappearances has fueled the climate of impunity for such crimes. As of July 2017, the United Nations (UN) Working Group on Enforced or Involuntary Disappearances (WGEID) had recorded 82 unresolved cases of enforced disappearance in Thailand.¹

On 17 November 2017, the Thai government said it would ask the WGEID to remove six of the cases from its database, because it claimed the authorities had determined that some of the victims were dead, while others were still alive. However, the government failed to provide further details of the cases in question.²

Some of the unresolved emblematic cases include the disappearances of prominent lawyer Somchai Neelapaijit in March 2004 and ethnic Karen activist Porlajee Rakchongcharoen aka 'Billy' in April 2014.³ Two more high-profile cases of suspected enforced disappearances have emerged since the latest CAT review of Thailand in April 2014. Fadel Sohmar, 28, from Pattani Province, was last seen being dragged into a car by three men on 24 January 2016, after he had left his home.⁴ Fadel had been suspected of involvement in the insurgency in Thailand's Southern Border Provinces. His family reported the incident to the police, but authorities claimed Fadel had been abducted by an insurgency group. Even though Fadel met with military officers as part of a 're-education' program the day before his disappearance, authorities denied any knowledge of his whereabouts.⁵ A police investigation has failed to determine his fate.⁶

Den Khamlae, a prominent land rights activist from the Kok Yao community in Kon Saan District, Chaiyaphum Province, went missing on 16 April 2016, after being seen entering the Kok Yao forest.⁷ Den and his wife, Suphap Khamlae, had been campaigning for the land rights of villagers from their

¹ Human Rights Council, *Report of the Working Group on Enforced or Involuntary Disappearances*, 31 July 2017, UN Doc. A/HRC/36/39

² Bangkok Post, *Govt seeks change to UN missing list*, 18 November 2017

³ FIDH, *In harm's way – Women human rights defenders in Thailand*, 3 July 2017

⁴ Bangkok Post, *And that was the last time we saw him*, 28 February 2016

⁵ Bangkok Post, *And that was the last time we saw him*, 28 February 2016

⁶ Prachatai, *Cross Cultural Foundation says Thai government fails to protect the right to life*, 11 March 2017

⁷ Bangkok Post, *Activist goes missing amid land dispute*, 22 April 2017

local community, who had been forced to leave their land in the 1980s.⁸ His disappearance occurred after authorities in the area ordered the community residents to leave their properties on 10 March 2016.⁹ To date, Den's whereabouts remain unknown.¹⁰ Suphap believes that Den is a victim of enforced disappearance.¹¹

As a result of the lack of adequate and impartial investigations, the families of the victims of enforced disappearance have not been provided with effective remedies and reparations.¹² They have also faced many obstacles in accessing justice, including retaliation by the authorities.¹³ For example, Suphap Khamlae, who has been seeking truth and justice in the case of her husband's disappearance, has been subjected to prolonged judicial harassment.¹⁴ On 17 June 2017, the Supreme Court upheld a lower court's conviction of Suphap on trumped up charges of land encroachment and sentenced her to six months' imprisonment.¹⁵ Suphap was released from the Phu Khieo District Prison on 6 January 2018.¹⁶

- ***Secret military detentions increase risk of enforced disappearance, torture***

The increased use of military facilities to detain civilians since the May 2014 coup d'état has led to allegations of enforced disappearance and torture in detention. Under the ruling National Council for Peace and Order (NCPO), human rights defenders and political dissidents, including in the context of the conflict in Thailand's Southern Border Provinces, have continued to be subjected to enforced disappearance and torture by military personnel, who acted with impunity [See below, *Torture, ill-treatment of detainees linked to deaths in custody*].¹⁷

On 28 May 2014, soldiers from the 14th Army Circle arrested Kritsuda Khunnasen, an anti-junta activist, in Chonburi Province. Military officers refused to provide information on her whereabouts, or allow her access to lawyers and family members.¹⁸ On 24 June 2014, she was released without charge after almost one month in incommunicado detention. She accused the soldiers of committing acts of torture and ill-treatment against her during her detention.¹⁹ Kritsuda has since fled from Thailand and is living in exile.²⁰

On 29 April 2017, human rights lawyer Prawet Prapanukul was arrested at his home in Bangkok for allegedly violating Article 112 of the Criminal Code (*lèse-majesté*).²¹ His fate and whereabouts were

⁸ Bangkok Post, *Activist goes missing amid land dispute*, 22 April 2017; Frontline Defenders, *Case history: Den Khamlae*, 3 May 2016

⁹ Front Line Defenders, *Case history: Den Khamlae*, 3 May 2016

¹⁰ Prachatai, *International Day of the Victims of Enforced Disappearances #2: complications in proving disappearance, death, Thai law and bureaucratic system*, 31 August 2017 [in Thai], <https://prachatai.com/journal/2017/08/73044>

¹¹ Bangkok Post, *Wife seeks NHRC help to find activist*, 12 May 2016

¹² Prachatai, *Case closed on disappeared human rights lawyer*, 13 October 2016; Prachatai, *International Day of the Victims of Enforced Disappearances #2: complications in proving disappearance, death, Thai law and bureaucratic system*, 31 August 2017 [in Thai], <https://prachatai.com/journal/2017/08/73044>

¹³ Prachatai, *International Day of the Victims of Enforced Disappearances #2: complications in proving disappearance, death, Thai law and bureaucratic system*, 31 August 2017 [in Thai], <https://prachatai.com/journal/2017/08/73044>;

Prachatai, *The day Suphap Khamlae, land rights activist, walks free*, 24 January 2018

¹⁴ Reuters, *Thai villagers seek answers to disappearance of land rights activist*, 11 May 2016; Bangkok Post, *Wife seeks NHRC help to find activist*, 12 May 2016

¹⁵ Nation, *Wife of missing activist gets six months jail for encroachment*, 27 July 2017; Khaosod English, *Disappeared activist and wife sentenced to prison*, 27 July 2017

¹⁶ Prachatai, *The day Suphap Khamlae, land rights activist, walks free*, 24 January 2018

¹⁷ Human Rights Committee, *Concluding observations on the second periodic report of Thailand*, 25 April 2017, UN Doc. CCPR/C/THA/CO/2, Para. 21

¹⁸ Human Rights Watch, *Thailand: Stop secret military detentions*, 10 June 2014

¹⁹ Human Rights Watch, *Thailand: Investigate alleged torture of activist*, 5 August 2014

²⁰ Prachatai, *Kritsuda reveals military tortured her to link Thaksin to hard-core red shirts*, 2 August 2014

²¹ Human Rights Watch, *Thailand: Rights lawyer feared 'disappeared'*, 2 May 2017

unknown until 3 May 2017 when he was brought to the Bangkok Criminal Court by police, who then filed a permission to detain him on charges of lèse-majesté and sedition (Article 116 of the Criminal Code).²² It was later revealed that Prawet had been then taken by military personnel to the Nakhon Chaisri temporary detention facility inside the 11th Army Circle Base in Bangkok, where he had been detained incommunicado for five days.²³

- ***Draft law criminalizing enforced disappearances shelved, new investigation committee ineffective***

Enforced disappearance, as defined in international standards, is still not recognized as a criminal offense in Thailand's legal system. A draft Prevention and Suppression of Torture and Enforced Disappearance Act was completed after years of efforts by government authorities in consultation with non-governmental organizations and civil society.²⁴ While the most recent version of the draft Act contained certain shortcomings, it marked a positive step towards preventing torture, ill-treatment, and enforced disappearances in accordance with Thailand's international obligations.²⁵

On 28 February 2017, the junta-appointed National Legislative Assembly (NLA) indefinitely suspended the adoption of the draft Act.²⁶ Although the Thai authorities said that the draft Act was only returned to the cabinet for further amendments, they refused to clarify when the legislation would be finalized.²⁷

On 23 May 2017, the government established the Committee to Receive Complaints and Investigate Allegations of Torture and Enforced Disappearance.²⁸ The Committee, chaired by the Justice Minister, is mandated to: 1) receive complaints; 2) perform fact-finding; 3) monitoring; 4) provide assistance and remedies to victims; and 5) protect people who have been affected by acts of torture or enforced disappearance.²⁹ Three subcommittees were established, tasked with monitoring and examining, preventing and raising awareness, and rehabilitating the victims of instances of torture and enforced disappearance.³⁰ However, to date, the Committee has failed to undertake any concrete and effective actions to fulfill its mandate and has held only two meetings, in June and November 2017.³¹

²² Prachatai, *Human rights lawyer Prawet found, with 5 other suspects, after soldiers handed them over to the police for custody under Article 112*, 3 May 2017 [in Thai], <https://prachatai.com/journal/2017/05/71314>

²³ Thai Lawyers for Human Rights, *Human rights lawyer Prawet on a hunger strike in 11th Army Circle Base – court denied bail, citing flight risk*, 4 May 2017 [in Thai], <http://www.tlhr2014.com/th/?p=4194>

²⁴ FIDH, *Letter to the government on the International Day of the Victims of Enforced Disappearances*, 30 August 2017

²⁵ FIDH, *Letter to the government on the International Day of the Victims of Enforced Disappearances*, 30 August 2017

²⁶ Prachatai, *Junta lawmakers drop bill criminalizing torture, enforced disappearance*, 1 March 2017

²⁷ BBC Thai, *NLA clarifies UN's statement: 'disappointed' by Thailand's decision to drop draft enforced disappearance law*, 1 March 2017 [in Thai], <http://www.bbc.com/thai/thailand-39127371>; Bangkok Post, *Govt seeks change to UN missing list*, 18 November 2017; Khaosod English, *Anti-torture bill not quashed, senior justice official says*, 2 March 2017

²⁸ Komchudluek, *Thailand not ignoring "enforced disappearances, tortures" - 82 people disappeared*, 26 June 2017 [in Thai], <http://www.komchadluek.net/news/regional/284642>

²⁹ Ministry of Foreign Affairs of the Kingdom of Thailand, *Press Release: Thailand's progress on prevention and suppression of torture and enforced disappearance*, 30 June 2017

³⁰ Royal Thai Government, *Justice Minister discusses measures to address complaints of torture and enforced disappearance*, 26 June 2017 [in Thai], <http://www.thaigov.go.th/news/contents/details/4793>

³¹ Royal Thai Government, *Justice Minister discusses measures to address complaints of torture and enforced disappearance*, 26 June 2017 [in Thai], <http://www.thaigov.go.th/news/contents/details/4793>; Royal Thai Government, *Ministry of Justice's Rights and Liberties Department discusses mechanisms to address complaints of torture and enforced disappearance to ensure protection of people's rights*, 6 November 2017 [in Thai], <http://www.thaigov.go.th/news/contents/details/7848>

- ***International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) not yet ratified***

On 9 January 2012, Thailand signed the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). A resolution in favor of ratifying the ICPPED was unanimously approved by the NLA on 10 March 2017.³² However, the Thai government has yet to deposit the treaty with the UN Secretary-General as required, or set a clear time frame to do so.

Questions

- Provide details on when Thailand intends to finalize and enact the draft Prevention and Suppression of Torture and Enforced Disappearance Act in compliance with international standards, including the International Covenant on Civil and Political Rights (ICCPR), the CAT, and the ICPPED.
- Provide updated information on progress made towards the ratification of the ICPPED.
- Explain the steps taken to investigate all cases of enforced disappearance in a prompt, thorough, credible, and impartial manner.
- Provide details on when Thailand intends to end the use of military bases as detention facilities for civilians.
- Provide updated information on actions taken by the Committee to Receive Complaints and Investigate Allegations of Torture and Enforced Disappearance.
- Provide detailed information on the six cases of enforced disappearance listed by the WGEID, which the Thai authorities claimed they have resolved.

Article 11: Detention conditions and treatment of detainees

- ***Overcrowded prisons, detention conditions below international standards, flawed new prison law***

High levels of overcrowding remain a persistent problem in Thailand's prisons. Thailand has the world's sixth highest prison population and the ninth highest incarceration rate.³³ As of January 2018, Thailand had a total prison population of 325,298 (281,872 men and 43,426 women).³⁴

Despite past recommendations made by UN human rights monitoring bodies, such as the CAT, the Human Rights Committee (CCPR), and the Committee on Economic, Social, and Cultural Rights (CESCR),³⁵ the Thai government has consistently failed to reduce overcrowding and improve conditions of detention. The prison population has steadily increased over the years, and rose from

³² Thairath, *NLA approved Enforced Disappearance Convention, imposed severe criminal sanctions*, 10 March 2017 [in Thai], <https://www.thairath.co.th/content/880637>

³³ According to the World Prison Brief, Institute for Criminal Policy Research's Highest to Lowest – Prison Population Rate ranking of 223 territories, based on December 2017 data for Thailand. World Prison Brief, Institute for Criminal Policy Research, Highest to Lowest – Prison Population Rate, accessed on 24 January 2018, http://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=All

³⁴ Department of Corrections, *Statistics of incarcerated persons nationwide*, 1 January 2018 [in Thai], <http://www.correct.go.th/stat102/display/result.php?date=2018-01-01&Submit=%B5%A1%C5%A7>

³⁵ Committee against Torture, *Concluding observations on the initial report of Thailand*, 20 June 2014, UN Doc. CAT/C/THA/CO/1, Para. 22; Human Rights Committee, *Concluding observations of the Human Rights Committee, Thailand*, 8 July 2015, UN Doc. CCPR/CO/84/THA, Para. 16; Human Rights Committee, *Concluding observations on the second periodic report of Thailand*, 25 April 2017, UN Doc. CCPR/CO/THA/CO/2 Para. 34; Committee on Economic, Social, and Cultural Rights, *Concluding observations on the combined initial and second periodic reports of Thailand*, 19 June 2015, UN Doc. E/C.12/THA/CO/1-2, Para. 28

296,727 in May 2014 to 325,298 in January 2018.³⁶ The vast majority of prisoners (237,655 or 73%) are incarcerated for drug-related crimes.³⁷

Aside from the granting of royal amnesties, no other effective measures have been adopted to reduce Thailand's prison population. The amendments to the 1979 Narcotics Act, which came into force on 16 January 2017, reduce prison sentences for some drug-related crimes.³⁸ However, no other alternatives to imprisonment for drug-related offenses have been introduced.

Conditions in Thai prisons fall short of meeting international standards. These conditions include inadequate access to medical treatment, insufficient food and potable water, and poor sanitation.³⁹ Women prisoners are particularly affected by such inhumane conditions, especially those pregnant or with children. In some instances, the deaths of inmates have raised concerns over the seriously inadequate detention conditions, as well as the neglect of prisoners by prison authorities, and their failure to conduct thorough and impartial investigations into these deaths [See below, *Torture, ill-treatment of detainees linked to deaths in custody*].⁴⁰

The most recent amendments to the 1936 Penitentiary Act, promulgated on 18 February 2017, contain a number of provisions that do not meet international standards. These include sections of the law that allow the use of instruments of restraint on prisoners, the practice of solitary confinement in excess of 15 consecutive days, and the exemption for prison officials from criminal and civil liability in some circumstances.⁴¹

- **Independent monitoring of prisons restricted**

After the May 2014 coup, access to prisons by national and international monitoring organizations has been significantly restricted.⁴² The Department of Corrections has repeatedly denied various independent organizations, including FIDH/UCL, access to both civilian and military detention facilities.⁴³ During Thailand's second Universal Periodic Review (UPR) between May and September 2016, the Thai government accepted one recommendation that called for the creation of "an external, independent inspection body that has access to all categories of prisoners in all places of detention," on the condition that the National Human Rights Commission of Thailand (NHRCT) and the Ombudsman be the sole authorities able to conduct prison visits.⁴⁴ The Thai government also claimed that the NHRCT regularly visits prisons and detention facilities.⁴⁵ However, members of the

³⁶ Department of Corrections, *Statistics of incarcerated persons nationwide*, 1 May 2014 [in Thai], <http://www.correct.go.th/stat102/display/result.php?date=2014-05-01&Submit=%B5%A1%C5%A7>; Department of Corrections, *Statistics of incarcerated persons nationwide*, 1 January 2018 [in Thai], <http://www.correct.go.th/stat102/display/result.php?date=2018-01-01&Submit=%B5%A1%C5%A7>

³⁷ Department of Corrections, *Statistics of incarcerated persons under Narcotics Act nationwide*, 1 January 2018 [in Thai], http://www.correct.go.th/stat102/display/drug_result.php?date=2018-01-01&Submit=%B5%A1%C5%A7

³⁸ Gazette, *Narcotics Act (the 6th edition) 2017*, 15 January 2017 [in Thai], http://www.jla.coj.go.th/doc/data/jla/jla_1498720502.pdf

³⁹ FIDH, *Behind the walls - A look at conditions in Thailand's prisons after the coup*, 28 February 2017

⁴⁰ Bangkok Post, *Two dead, many dead at Si Sa Ket prison*, 14 December 2017

⁴¹ FIDH, *Behind the walls - A look at conditions in Thailand's prisons after the coup*, 28 February 2017

⁴² FIDH, *Behind the walls - A look at conditions in Thailand's prisons after the coup*, 28 February 2017

⁴³ Bangkok Post, *HRW demands torture probe, transfer of military detainees*, 3 December 2015; Thai Lawyers for Human Rights, *A year of civilian detention in a prison on military base: What do we know about the detainees there?*, 15 November 2016; FIDH, *Behind the walls - A look at conditions in Thailand's prisons after the coup*, 28 February 2017

⁴⁴ UN Human Rights Council, 33rd session, *Report of the Working Group on the Universal Periodic Review – Thailand – Addendum*, 7 September 2016, UN Doc. A/HRC/33/16/Add.1, Para. 7 (Recommendation 159.31); UN Human Rights Council, 33rd session, *Report of the Working Group on the Universal Periodic Review – Thailand – Addendum*, 7 September 2016, UN Doc. A/HRC/33/16/Add.1, Para. 7

⁴⁵ UN Human Rights Council, 33rd session, *Report of the Working Group on the Universal Periodic Review – Thailand – Addendum*, 7 September 2016, UN Doc. A/HRC/33/16/Add.1, Para. 7

NHRCT have repeatedly been denied visits to places of detention and prisoners despite their official capacity.⁴⁶

- ***Torture, ill-treatment of detainees linked to deaths in custody***

Torture and abuse of detainees remain prevalent in Thai prisons. Deaths in custody have occurred in various places of detention across the country, including police stations, prisons, and military detention facilities. The types of punishment include beating by the prison guards, having one's feet chained, corner segregation, as well as solitary confinement for serious offenses.⁴⁷ Restraining devices, such as shackles, have also been excessively used on prisoners.⁴⁸ Prisoners are often subjected to exploitative labor practices and punishment that may amount to torture and ill-treatment.⁴⁹

Since the May 2014 coup until January 2018, there have been at least 16 cases of individuals who died while being detained by police or the military from apparent killing, torture, and other acts that could amount to cruel, inhuman, or degrading treatment. The Thai government has regularly dismissed claims that police or military personnel were responsible for the deaths of the detainees, and have failed to carry out credible investigations to identify the perpetrators in order to provide justice and full reparation to the families.

Under the NCPO, individuals held in military custody are at particular risk of torture and ill-treatment, as military facilities across Thailand have increasingly been used to arbitrarily detain civilians, and do not have any effective safeguards to prevent such human rights violations. For example, since the establishment of the Nakhon Chaisri temporary detention facility inside the 11th Army Circle base in Bangkok in September 2015, two deaths have occurred and allegations of torture have surfaced at the facility.⁵⁰

On 23 October and 7 November 2015 respectively, former police officer Prakrom Warunprapa and Suriya Sucharitpolpong aka 'Mor Yong', two detainees charged with lèse-majesté, were found dead in their cells in the Nakhon Chaisri temporary detention facility. Authorities concluded that Prakrom had hanged himself in the prison cell and Suriya had died of circulation and respiratory failure set off by septicemia.⁵¹ In both cases, the bodies were quickly returned to their families and were cremated within days of their deaths.⁵² No independent autopsies and investigations were conducted to probe their deaths.⁵³

The lawyer of Adem Karadag aka Bilal Mohammed, one of the suspects in the deadly bombing of the Erawan Shrine in Bangkok in August 2015, reported that Adem had been tortured into making a

⁴⁶ Khaosod English, *Deaths of Lèse-majesté suspects prompt calls for greater transparency*, 10 November 2015; Bangkok Post, *Pattani prison riot leaves three inmates dead*, 16 July 2016; Khaosod English, *Human rights officials barred from visiting alleged torture victims in prison*, 25 March 2017

⁴⁷ FIDH, *Behind the walls - A look at conditions in Thailand's prisons after the coup*, 28 February 2017

⁴⁸ FIDH, *Behind the walls - A look at conditions in Thailand's prisons after the coup*, 28 February 2017

⁴⁹ FIDH, *Behind the walls - A look at conditions in Thailand's prisons after the coup*, 28 February 2017

⁵⁰ Nation, *Lèse-majesté suspect dies after hanging himself in detention cell*, 24 October 2015; AFP, *Thai fortune teller held under royal defamation law found dead*, 9 November 2015; Reuters, *Chinese Uighur was tortured into confessing role in Bangkok bomb: lawyer*, 15 February 2016

⁵¹ Khaosod English, *'Royal Imposter' suspect found hanging in prison, officials say*, 24 October 2015; AFP, *Thai junta chief says military not to blame for custody death*, 10 November 2015

⁵² Bangkok Post, *Cops trace lèse-majesté suspects to graft network*, 27 October 2015; Bangkok Post, *Lèse-majesté suspect 'Mor Yong' dies in army custody*, 10 November 2015

⁵³ Khaosod English, *Further autopsy of lèse-majesté inmate unnecessary, Minister says*, 26 October 2015; BBC, *Second Thailand lèse-majesté detainee dies in military custody*, 9 November 2015

confession at the Nakhon Chaisri temporary detention facility.⁵⁴ On 17 May 2016, during a court hearing, Adem also claimed that he had been tortured by authorities at the facility.⁵⁵

In addition, several prominent human rights defenders who documented allegations of torture and ill-treatment have been subjected to judicial harassment by the military. On 26 July 2016, police from the Pattani Police Station, Pattani Province, pressed criminal charges against Cross Cultural Foundation (CrCF) Director Pornpen Khongkachonkiet, prominent lawyer and senior legal advisor to CrCF Somchai Homlaor, and the founder and Director of the organization Duay Jai [Hearty Support] group Anchana Heemmina. The three were accused by the Internal Security Operations Command (ISOC) Region 4 of defamation (Article 326 of the Criminal Code), libel (Article 328 of the Criminal Code), and violation of the 2007 Computer Crimes Act for publishing and uploading to the internet a report that documented allegations of torture and ill-treatment of Muslim insurgent suspects by military officers in Thailand's Southern Border Provinces.⁵⁶ On 7 March 2017, the ISOC officers announced that they would drop the lawsuits against the three.⁵⁷ The ISOC officers said that the decision had been made following an agreement between the two parties that a joint fact-finding committee to review torture allegations be set up in order to examine future torture reports, and that the joint committee would create appropriate preventative measures and remedial approaches to torture.⁵⁸ However, the three defendants later insisted that they had not agreed to the ISOC's proposal for the creation of a joint committee.⁵⁹ The charges were not formally withdrawn until 1 November 2017.⁶⁰

Questions

- Provide information on the policies implemented and concrete measures taken to reduce the prison population.
- Provide information on measures taken to improve conditions in detention facilities to comply with international standards.
- Provide details on when Thailand intends to end the use of military bases, such as the Nakhon Chaisri temporary detention facility inside the 11th Army Circle base in Bangkok, to detain civilians.
- Provide statistical information on the number of civilians taken into custody since September 2015 and the number of civilians currently detained at the Nakhon Chaisri temporary detention facility inside the 11th Army Circle base in Bangkok.
- Provide information on effective safeguards against torture and ill-treatment of detainees, especially civilians taken into military custody.
- Provide information on concrete measures taken to investigate cases of deaths in custody and torture allegations in a prompt, thorough, credible, and impartial manner, especially the two deaths of *lèse-majesté* detainees and all allegations of torture and ill-treatment at the Nakhon Chaisri temporary detention facility inside the 11th Army Circle base in Bangkok.
- Provide information about steps taken to allow national and international monitoring organizations to conduct visits to places of detention independently and without undue hindrance.

⁵⁴ Reuters, *Chinese Uighur was tortured into confessing role in Bangkok bomb: lawyer*, 15 February 2016

⁵⁵ Reuters, *Thailand bomb suspect breaks down, tells media, "I'm not an animal"*, 17 May 2016

⁵⁶ Observatory Urgent Appeal THA 003/0816/OBS 066.1, *Thailand: Decision to withdraw all charges against Ms. Pornpen Khongkachonkiet, Mr. Somchai Homlaor and Ms. Anchana Heemmina*, 9 March 2017

⁵⁷ Observatory Urgent Appeal THA 003/0816/OBS 066.1, *Thailand: Decision to withdraw all charges against Ms. Pornpen Khongkachonkiet, Mr. Somchai Homlaor and Ms. Anchana Heemmina*, 9 March 2017

⁵⁸ Observatory Urgent Appeal THA 003/0816/OBS 066.1, *Thailand: Decision to withdraw all charges against Ms. Pornpen Khongkachonkiet, Mr. Somchai Homlaor and Ms. Anchana Heemmina*, 9 March 2017

⁵⁹ Khaosod English, *ISOC drops defamation suit over torture report, raising new concern*, 7 March 2017

⁶⁰ Front Line Defenders, *Case History: Anchana Heemmina*, 1 November 2017

Article 12: Ongoing impunity for deaths of cadets and military personnel

Deaths of military cadets or conscripts from torture continued to be reported in Thailand, yet no military officer has ever been charged or criminally sanctioned due to the lack of prompt and impartial investigations conducted, contrary to Thailand's obligations under the CAT.

Since the May 2014 coup until January 2018, eight army conscripts have died while undergoing extreme disciplinary punishment that amounted to torture. Despite the 1933 Military Disciplinary Act, which explicitly forbids corporal punishment, such practices are known to exist within the Thai military.⁶¹ Allegations of military abuse are often raised by families of the victims.⁶² However, the Thai Army has consistently denied any wrongdoing by military officers under their command and often insisted that the deaths were from pre-existing health conditions.⁶³

The case of Phakhaphong Tanyakan, a 19-year-old cadet from the Armed Forces Academies Preparatory School in Nakhon Nayok Province, exemplifies this trend. On 17 October 2017, Phakhaphong died abruptly after returning to the school from leave. His family received a death certificate from the school, indicating Phakhaphong's cause of death as "sudden cardiac arrest."⁶⁴ However, the physician who conducted the autopsy said that Phakhaphong's ribs and both of his collarbones were broken, possibly due to blunt trauma.⁶⁵ A fact-finding committee consisting of 11 military officers was set up to conduct an investigation into his death.⁶⁶ The committee confirmed that Phakhaphong had been inappropriately punished by other senior students, but insisted that he had died of a health condition.⁶⁷ On 22 November 2017, in response to Phakhaphong's death, Defense Minister Prawit Wongsuwan admitted that excessive physical punishment was part of military service and revealed that he also had been subjected to such treatment in the Army. When asked by journalists how similar incidents could be avoided in the future, his answer was "Don't sign up."⁶⁸

Questions

- Provide details on concrete measure taken by the Thai military to put an end to the excessive corporal punishment of military cadets and conscripts.
- Provide information, including statistics, on investigations into torture allegations against military cadets and conscripts in a prompt, thorough, credible, and impartial manner.

⁶¹ Gazette, *Military Disciplinary Act B.E.2476*, 19 January 2018 [in Thai], <http://app-thca.krisdika.go.th/Naturesig/CheckSig?whichLaw=law2&folderName=%C721&lawPath=%C721-20-9999-update>; Matchon, *Prawit says cadets must be prepared to be disciplined, insisting "Maey" did not die from punishment*, 22 November 2017 [in Thai], <https://www.matchon.co.th/news/739928>

⁶² Matchon, *Relative reveals: private died from being beaten overnight after finding that another soldier had stolen his money*, 5 April 2016 [in Thai], <https://www.matchon.co.th/news/95288>; Prachatai, *Thai soldier allegedly dies from ill-treatment during training*, 7 June 2016; Prachatai, *Mother sues Thai Army over son's death*, 9 March 2017

⁶³ Bangkok Post, *Panel insists cadet died of heart attack*, 16 December 2017; Manager Online, *Army conscript died in Thep Satri Si Sunthorn Camp, Mother suspicious of autopsy result pointing 'heart failure', despite bruises on body*, 12 November 2017 [in Thai], <https://mgronline.com/crime/detail/9600000114360>

⁶⁴ Prachatai, *Internal organs of cadet who died at military academy disappear*, 21 November 2017

⁶⁵ Prachatai, *Internal organs of cadet who died at military academy disappear*, 21 November 2017

⁶⁶ Prachatai, *List of committee members to investigate the death of military academy student Pakapong*, 26 November 2017 [in Thai], <https://prachatai.com/journal/2017/11/74305>

⁶⁷ Nation, *Military absolves its own over the death of cadet*, 16 December 2017; Nation, *Death cadet's family to pursue legal action*, 24 January 2018

⁶⁸ Khaosod English, *Army admit keeping death cadet's organ*, 22 November 2017; Matchon, *Prawit says cadets must be prepared to be disciplined, insisting "Maey" did not die from punishment*, 22 November 2017 [in Thai], <https://www.matchon.co.th/news/739928>