



ใบแถลงข่าว

สหพันธ์สากลเพื่อสิทธิมนุษยชน (FIDH - International Federation for Human Rights)

กับสมาชิกในประเทศไทย

สมาคมสิทธิเสรีภาพของประชาชน (สสส.)

และ

โครงการอินเทอร์เน็ตเพื่อกฎหมายประชาชน (iLaw)

รัฐบาลไทยมิได้ตอบสนองต่อความกังวลขององค์การสหประชาชาติ

ในการทบทวนสถานการณ์สิทธิมนุษยชน

กรุงเทพฯ, เจนีวา และปารีส, 27 เมษายน 2563: สหพันธ์สากลเพื่อสิทธิมนุษยชน (International Federation for Human Rights - FIDH) และองค์กรสมาชิกสององค์กรในประเทศไทยคือ สมาคมสิทธิเสรีภาพของประชาชน (สสส.) และโครงการอินเทอร์เน็ตเพื่อกฎหมายประชาชน (iLaw) ร่วมกันแถลงในวันนี้ว่า ประเทศไทยมิได้ตอบสนองต่อข้อกังวลเกี่ยวกับสิทธิพลเมืองและสิทธิทางการเมืองในประเด็นสำคัญที่หน่วยงานด้านสิทธิมนุษยชนขององค์การสหประชาชาติได้เคยหยิบยกขึ้นมาแนะนำให้ปรับปรุง

ในวันนี้ FIDH สสส. และ iLaw ได้ยื่นรายงานเงาหรือรายงานคู่ขนานติดตามผล ฉบับที่ 2 ต่อคณะกรรมการสิทธิมนุษยชนแห่งสหประชาชาติซึ่งได้ให้รายละเอียดถึงความล้มเหลวของรัฐบาลไทยในการดำเนินงานตามข้อเสนอแนะของคณะกรรมการ เมื่อเดือนมีนาคม 2560 ที่มีประเด็นสำคัญลำดับต้นๆดังนี้คือ 1) รัฐธรรมนูญและกรอบทางกฎหมายของประเทศ 2) การวิสามัญฆาตกรรม การทำให้บุคคลสูญหาย และการทรมาน และ 3) สภาพการคุมขัง

FIDH สสส. และ iLaw ได้เคยเผยแพร่รายงานคู่ขนานฉบับที่ 1 ไปแล้ว เมื่อเดือนสิงหาคม 2561 ว่า

“รัฐบาลไทยได้แสดงให้เห็นอีกครั้งหนึ่งว่า ไม่เต็มใจหรือไม่สามารถที่จะสนองตอบข้อกังวลของประชาคมนานาชาติในเรื่องสิทธิมนุษยชนได้ องค์การสหประชาชาติควรจะเน้นย้ำถึงความล้มเหลวของรัฐบาลไทยที่ยังมีอยู่ต่อไปในการปกป้องส่งเสริมสิทธิพลเมืองและสิทธิทางการเมือง และเสนอแนะเพื่อให้มีการปรับปรุงต่อไป” กิซซู จาฮานกิรี รองประธาน FIDH กล่าว

คณะกรรมการสิทธิมนุษยชนแห่งสหประชาชาติจะทบทวนรายงานสิทธิมนุษยชนของประเทศไทยอีกครั้งในการประชุมสมัยที่ 129 ซึ่งกำหนดจะจัดขึ้นระหว่างวันที่ 29 มิถุนายนถึง 24 กรกฎาคม 2563 ที่นครเจนีวา ประเทศสวิตเซอร์แลนด์

สำหรับกรอบกฎหมายของไทย เมื่อได้มีการประกาศใช้รัฐธรรมนูญไปเมื่อเดือนเมษายน 2560 มีบทบัญญัติที่ยอมให้ประกาศและคำสั่งของคณะรักษาความสงบแห่งชาติ (คสช.) ที่ออกมากดขี่ปราบปรามประชาชน ยังดำรงอยู่ต่อไปจนกว่าจะยุบคณะผู้ปกครองที่เป็นทหารดังกล่าวในเดือนกรกฎาคม 2562 ยิ่งไปกว่านั้นยังมีประกาศและคำสั่งที่กดขี่ปราบปรามอีกหลายฉบับที่ยังมีผลบังคับใช้อยู่ในปัจจุบัน บทบัญญัติของรัฐธรรมนูญ พ.ศ. 2560 ที่เป็นปัญหา ยังมีอีกมากมายที่ขัดแย้งอย่างร้ายแรงกับหลักการประชาธิปไตย และคำจูงใจกองทัพยังคงยึดกุมอำนาจได้ต่อไปอีกหลายปี:

“มรดกตกทอดในการใช้เป็นเครื่องมือปราบปรามประชาชน ของคณะผู้ปกครองทหารยังคงดำรงอยู่ แม้จะมีการยุบเลิกคณะผู้ปกครองนั้นไปแล้วอย่างเป็นทางการ องค์การสหประชาชาติควรส่งสัญญาณไปยังรัฐบาลไทยว่า จำเป็นต้องมีปฏิบัติการที่เร่งด่วนและบรรลุผลได้อย่างจริงจังเพื่อฟื้นฟูนิติธรรม การเคารพสิทธิพลเมืองและสิทธิทางการเมือง พร้อมกับส่งเสริมหลักการประชาธิปไตย” จอน อึ้งภากรณ์ ผู้อำนวยการบริหารของ iLaw กล่าว

นับเป็นความล้มเหลวของรัฐบาลไทยที่ยังไม่สามารถนำข้อเสนอแนะของคณะกรรมการสิทธิมนุษยชนแห่งสหประชาชาติ เกี่ยวกับปัญหาการทรมาน การวิสามัญฆาตกรรม และการทำให้บุคคลสูญหายไปปฏิบัติ มีรายงานว่า การละเมิดสิทธิมนุษยชนในลักษณะเช่นนี้ยังคงดำรงอยู่ เช่นเดียวกับมีรายงานถึงการไม่ลงโทษเจ้าหน้าที่ที่ละเมิดสิทธิมนุษยชนโดยปล่อยให้เจ้าหน้าที่พ้นผิดลอยนวลจากเรื่องดังกล่าว เนื่องจากไม่มีการสอบสวนดำเนินคดีกรณีเหล่านี้อย่างจริงจัง ซึ่งขัดแย้งกับพันธกรณีที่ประเทศไทยเข้าร่วมเป็นภาคีภายใต้กติการะหว่างประเทศว่าด้วยสิทธิพลเมืองและสิทธิทางการเมือง (ICCPR)

เกี่ยวกับสภาพการคุมขัง ประเทศไทยไม่สามารถกำหนดขั้นตอนที่เป็นรูปธรรมเพื่อลดสภาพที่แออัดเกินไปของเรือนจำต่างๆ และที่ประกันว่าผู้ต้องขังจะได้รับการปฏิบัติอย่างมีมนุษยธรรมและมีศักดิ์ศรี หรือปรับปรุงให้สภาพการคุมขังในเรือนจำทุกแห่งของไทยเป็นไปตามมาตรฐานสากล ตามที่คณะกรรมการสิทธิมนุษยชนแห่งสหประชาชาติ ได้เสนอแนะ

“ประชากรในเรือนจำของไทยได้เพิ่มขึ้นมากกว่า 30% นับตั้งแต่องค์การสหประชาชาติได้ทบทวนสถานการณ์ในครั้งก่อนเมื่อเดือนมีนาคม 2560 เป็นต้นมา ความแออัดมากเกินไปและสถานะที่ต่ำกว่ามาตรฐานย่อมหมายถึงว่าเรือนจำของไทยเป็นระเบิดเวลาที่พร้อมจะระเบิดได้ทุกเวลา รัฐบาลไทยต้องปฏิรูปนโยบายอย่างเร่งด่วนเพื่อแก้ไขปัญหารากเหง้าของภาวะวิกฤตการณ์นี้ โดยเฉพาะในสถานการณ์ที่โรคโควิด 19 กำลังแพร่ระบาดอย่างรุนแรงในขณะนี้ ” กวิน ชุติมา รองประธานของสมาคมสิทธิเสรีภาพของประชาชน กล่าว

คณะกรรมการสิทธิมนุษยชนแห่งสหประชาชาติ มีบทบาทในการติดตามให้รัฐภาคีปฏิบัติตามพันธะผูกพันทางกฎหมายภายใต้กติการะหว่างประเทศว่าด้วยสิทธิพลเมืองและสิทธิทางการเมือง (ICCPR) ประเทศไทยเป็นรัฐภาคีของกติกานับนี้ คณะกรรมการได้ดำเนินการทบทวนรายงานระยะที่สองของประเทศไทย ไปแล้วเมื่อวันที่ 13-14 มีนาคม พ.ศ. 2560

ติดต่อและขอทราบข้อมูลเพิ่มเติม

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FIDH - International Federation for Human Rights

and its member organizations in Thailand

Union for Civil Liberty (UCL)

and

Internet Law Reform Dialogue (iLaw)

Joint press release

Thailand: Government fails to address UN concerns in follow-up human rights review

Bangkok, Geneva, Paris, 27 April 2020: Thailand has failed to address concerns raised by the United Nations (UN) Human Rights Committee (CCPR) with regard to key civil and political rights, FIDH and its member organizations Union for Civil Liberty (UCL) and Internet Law Reform Dialogue (iLaw) said today.

FIDH, UCL, and iLaw today [submitted a second follow-up shadow report](#) to the CCPR, in which they detailed the Thai government's ongoing failure to implement the [recommendations made by the CCPR in March 2017](#) on the following priority issues: 1) The constitution and the country's legal framework; 2) Extrajudicial killings, enforced disappearances, and torture; and 3) Conditions of detention. FIDH, UCL, and iLaw had issued [their first follow-up shadow report](#) in August 2018.

“Thailand’s government has once again shown that it is unwilling or unable to address the UN’s human rights concerns. The UN should acknowledge the Thai government’s ongoing failure to uphold civil and political rights and continue to make recommendations for improvement,” said FIDH Vice-President Guissou Jahangiri.

The CCPR will conduct the follow-up review of Thailand during its 129th session, which is set to be held from 29 June to 24 July 2020 in Geneva, Switzerland.

With regard to the country's legal framework, the constitution promulgated in April 2017 contains provisions that allowed repressive decrees issued by the military junta to remain in place until its dissolution in July 2019. Several of these repressive decrees remain in effect to date. Other problematic provisions of the 2017 constitution clash with democratic principles and ensure that the military will retain its grip on power for the next several years.

“The repressive legacy of the military junta lives on despite its formal dissolution. The UN should signal to the Thai government that urgent and substantive action is needed to restore the rule of law, respect of civil and political rights, and uphold democratic principles,” said iLaw Executive Director Jon Ungpakorn.

The Thai government has also failed to implement the CCPR's recommendations on torture, extrajudicial killings, and enforced disappearances. Reports of these types of human rights violations persist, as do reports of impunity for perpetrators of such violations due to inadequate investigations of these cases, contrary to Thailand's obligations under the International Covenant on Civil and Political Rights (ICCPR).

With regard to detention conditions, Thailand has failed to take tangible steps to reduce prison overcrowding, guarantee that detainees are treated with humanity and dignity, or ensure that conditions of detention in all Thai jails are in line with international standards, as recommended by the CCPR.

“Thailand’s prison population has increased by more than 30% since the UN review in March 2017. Severe overcrowding and sub-standard conditions mean that Thai prisons are a ticking time bomb ready to explode. The Thai government must urgently undertake policy reforms that address the root causes of this crisis,” said UCL Vice-President Gawin Chutima.

The CCPR monitors states parties' compliance with their legal obligations under the ICCPR. Thailand is a state party to the ICCPR. Thailand's second periodic review under the ICCPR was examined by the CCPR on 13-14 March 2017.

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**Assessment of Thailand's follow-up actions for the implementation of
the UN Human Rights Committee's recommendations**

27 April 2020

This report is the second assessment jointly produced by FIDH, UCL, and iLaw, as part of the follow-up review of Thailand by the United Nations (UN) Human Rights Committee (CCPR). The follow-up review of Thailand stems from the CCPR's consideration of the country's second periodic report under the International Covenant on Civil and Political Rights (ICCPR), which was conducted on 13-14 March 2017 in Geneva, Switzerland.

[The previous FIDH-UCL-iLaw assessment report](#) was released on 14 August 2018. The present report covers key developments that occurred between 15 August 2018 and 24 April 2020, with regard to the three priority issues identified by the CCPR in March 2017, namely: 1) The constitution and the country's legal framework; 2) Extrajudicial killings, enforced disappearances, and torture; and 3) Conditions of detention.

After being delayed for more than two years due to various reasons, the review of the Thai government's implementation of the recommendations made by the CCPR concerning the three above-mentioned priority issues will take place during the committee's 129th session, which is currently scheduled to be held from 29 June to 24 July 2020 in Geneva.

Regrettably, the Thai government has continued its failure to satisfactorily address the three priority issues raised by the CCPR. This joint FIDH/UCL/iLaw report documents this failure and makes recommendations to the CCPR for the outcome of the follow-up review. This report also includes recommended grades, based on the CCPR grading system.¹

¹ Based on information submitted by the state party and non-state actors, the CCPR adopts grades reflecting its analysis of the level of implementation of the recommendations included in the follow-up procedure. The CCPR's follow-up assessment criteria are as follows:

A: Reply/action largely satisfactory.

B: Reply/action partially satisfactory.

C: Reply/action not satisfactory.

D: No cooperation with the Committee.

E: Information or measures taken are contrary to or reflect rejection of the recommendation.

Implementation of the recommendations made on the constitutional and legal framework (ICCPR, Article 2)
RECOMMENDED GRADE: 'C'

"The State party should review all measures adopted under the interim Constitution of 2014, in particular under sections 44, 47 and 48, in the light of its obligations under the Covenant, and make sure that all measures to be adopted under the new draft Constitution, including section 279, will be consistent with its obligations under the Covenant, including the obligation to provide effective remedies to victims of human rights violations."²

We recommend that the CCPR give Thailand a 'C' grade on the implementation of the recommendations made on the constitutional and legal framework, as the charter promulgated in April 2017 contains provisions that allowed for the repressive decrees that are not in compliance with the country's obligations under the ICCPR to remain in place until the dissolution of the military junta in July 2019. Several of these repressive decrees remain in effect to date.

Latest constitution prolonged junta's sweeping powers, cements military grip on power

The National Council for Peace and Order (NCPO), the military junta that seized power in the May 2014 coup d'état, retained almost all the tools that allowed it to wield absolute and unchecked powers until its dissolution in July 2019, following the swearing-in of the new cabinet, in accordance with Article 265 of the 2017 constitution. In contradiction with the constitution itself, which guarantees fundamental rights and liberties, Articles 265 and 279 allowed the NCPO to repress human rights through the continued enactment and enforcement of draconian decrees, including orders issued under Article 44 of Thailand's interim constitution (enacted on 22 July 2014), until the junta's dissolution. Some of those decrees remain in force to date [See below, *Several repressive NCPO decrees remain in effect*].

Other problematic provisions of the 2017 constitution clash with democratic principles and ensure the military will retain its grip on power for the next several years. Under Article 269, a 'transition period' from 2019 to 2024, allows for a 250-member Senate dominated by NCPO appointees.³ In addition, Article 272 of the constitution stipulates that during the 'transition period' the Prime Minister should be nominated by a majority vote of a joint session of both houses of Parliament (the Senate and the 500-member House of Representatives). This provision paved the way for NCPO Head General Prayuth Chan-ocha to become the prime ministerial candidate of the military-backed Palang Pracharat Party (PPP) and then win the vote to become Prime Minister despite the PPP having only 118 elected members in the House of Representatives. On 5 June 2019, General Prayuth received a total of 500 votes from the members of the House of Representatives and the Senate.⁴ Of all 250 Senators present, 249 voted for General Prayuth, while the Senate Speaker abstained.⁵

² Human Rights Committee, *Concluding observations on the second periodic report of Thailand*, 25 April 2017, UN Doc. CCPR/C/THA/CO/2, Para. 8

³ Fifty members of the Senate are selected by the NCPO from a list of individuals submitted by the Election Commission; 194 are selected from a list of individuals submitted by an NCPO-appointed committee; and six seats are reserved for top-ranking officials in the military, police, and the Ministry of Defense.

⁴ Bangkok Post, *House, Senate elect Prayut Thailand's new prime minister*, 5 June 2019

⁵ Bangkok Post, *PM Prayut thanks MPs for their votes*, 6 June 2019

In addition, the 2017 constitution effectively grants the NCPO-appointed Senate veto power over amendments to the charter. According to Article 256 of the charter, constitutional amendments require the favorable vote of no less than one third of the Senate in the first and third (final) readings.

Several repressive NCPO decrees remain in effect

The 2017 constitution and the military-backed Parliament installed following the March 2019 election ensure that several repressive decrees issued by the NCPO remain in force to date. Under Article 279 of the 2017 constitution, all existing NCPO decrees can only be repealed or replaced through the passing of permanent laws.

In the lead-up to the March 2019 general election in 2019, NCPO Head General Prayuth Chan-ocha repealed a number of decrees that unduly restricted the right to freedom of peaceful assembly and the right to freedom of association. Most notably, NCPO Order 22/2018, issued on 11 December 2018, repealed Article 12 of NCPO Order 3/2015, which banned political gatherings of more than four people.

On 9 July 2019, General Prayuth issued Order 9/2019, which resulted in the repeal of 66 NCPO decrees. However, at least another 65 remained in effect.⁶

Among the repressive decrees that remain in force are Orders 3/2015 and 13/2016. Article 6 of Order 3/2015 stipulates that military authorities can summon individuals to report themselves to unrecognized places of detention and detain them without any judicial oversight for up to seven days in relation to the alleged commission of certain offenses. Similarly, Order 13/2016 grants military authorities sweeping law enforcement powers to prevent and suppress certain crimes. Authorities can detain individuals up to seven days in unrecognized places of detention without judicial oversight. The deprivation of liberty of persons for up to seven days in unrecognized places of detention, without judicial oversight, increases the risk of human rights abuses, including torture and enforced disappearance. The lack of judicial review of the deprivation of liberty is contrary to the rights to an effective remedy and to a fair trial, which are guaranteed by Articles 2, 9, and 14 of the ICCPR.

Despite the repeal of Article 12 of Order 3/2015, in some cases, Thai courts allowed prosecutions for violation of the ban on political gatherings. On 27 January 2020, the Dusit Municipal Court in Bangkok went ahead with the prosecution of 38 defendants who participated in a peaceful demonstration in Bangkok in May 2018 to call for a general election, pursuant to Order 3/2015.⁷ On 8 November 2019, the Supreme Court dismissed a legal challenge by an activist who had been convicted in December 2016 of violating Article 12 of Order 3/2015. The conviction had been upheld by the Court of Appeals in May 2018 and by the Supreme Court in August 2019. The activists had demanded the Supreme Court overturn its own verdict in light of the prior repeal of Article 12 of Order 3/2015.⁸

⁶ Bangkok Post, *PM issues final S44 order*, 10 July 2019

⁷ TLHR, *Progress of the case UN62: Dusit District Attorney has not withdrawn the charges under Order 3/2558, even if the law has been repealed*. 27 January 2020 [in Thai], <https://www.tlhr2014.com/?p=15693>

⁸ iLaw, *Supreme Court found Aphichat guilty under order of Head of NCPO Order 3/2015 (12), despite the fact that the order has been repealed*, 8 November 2019 [in Thai], https://web.facebook.com/iLawClub/posts/10162727017695551/?_rdc=1&_rdr

Implementation of the recommendations made on torture and other ill-treatment, extrajudicial killings, and enforced disappearances (ICCPR, Articles 2, 6-7, 9-10, and 16) RECOMMENDED GRADE: 'C'

"The State party should:

- (a) Ensure that cases are reported and that prompt, impartial and thorough investigations are carried out into all allegations and complaints concerning the unlawful and excessive use of force by law enforcement officials and the military, including torture, enforced disappearances and extrajudicial killings, including in the context of the southern border provinces. It should also ensure that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions;*
- (b) Provide the truth about the circumstances of those crimes and, in cases of enforced disappearances, clarify the fate or whereabouts of the victims and ensure that their relatives are informed about the progress and the results of investigations;*
- (c) Ensure that the victims are provided with full reparation, including satisfaction and guarantees of non-repetition;*
- (e) Promptly set up an independent mechanism for the prevention and suppression of torture and enforced disappearances.⁹*

We recommend that the CCPR give Thailand a 'C' grade on the implementation of the recommendations made on torture and other ill-treatment, extrajudicial killings, and enforced disappearances. Reports of these types of violations persist, as do reports of impunity for perpetrators due to inadequate investigations of these cases, contrary to Thailand's obligations under the ICCPR.

Allegations of enforced disappearances and extrajudicial killings remain unaddressed

The Thai government has continued in its failure to implement adequate measures to ensure prompt, thorough, credible, and impartial investigations into allegations of enforced disappearances and extrajudicial killings, fueling a climate of impunity for these crimes.

The Committee to Receive Complaints and Investigate Allegations of Torture and Enforced Disappearance, set up by the government in May 2017, has failed to undertake any concrete and effective actions to fulfill its mandate.

With regard to enforced disappearances, despite the government's claim of having resolved several cases since the CCPR review in March 2017,¹⁰ as of May 2019, there were still 79 unresolved cases (including nine women) of enforced disappearances in Thailand in the database of the UN Working Group on Enforced or Involuntary Disappearances (WGEID).¹¹ From May 2017 to May 2019, four new cases were transmitted to the WGEID.

One of the pending cases is that of Porlajee Rakchongcharoen aka 'Billy', a Karen human rights defender from Kaeng Krachan National Park, Phetchaburi Province, who disappeared on 17 April 2017 after being detained by park authorities. In April 2019, the police Department of Special Investigation (DSI) discovered an oil barrel at the bottom of a reservoir in Kaeng Krachan National Park. Inside the oil barrel, police found several pieces of burnt skull, which

⁹ Human Rights Committee, *Concluding observations on the second periodic report of Thailand*, 25 April 2017, UN Doc. CCPR/C/THA/CO/2, Para. 22

¹⁰ FIDH, *Failing grade urged over key human rights issues*, 14 August 2018, available at: <https://www.fidh.org/en/region/asia/thailand/failing-grade-urged-over-key-human-rights-issues>

¹¹ Human Rights Council, 36th session, *Report of the Working Group on Enforced or Involuntary Disappearances*, 31 July 2017, UN Doc. A/HRC/36/39

DNA tests later confirmed that the bone fragments belonged to 'Billy.'¹² On 11 November 2019, the Central Criminal Court for Corruption and Misconduct Cases issued an arrest warrant for four Kaeng Krachan National Park officials, including former National Park Chief Chaiwat Limlikit-aksorn. On 12 November 2019, the four suspects were released on bail. In late January 2020, prosecutors dropped the murder charges against the four officials because of insufficient evidence.¹³

Meanwhile, disappearances of activists continued to be reported in Thailand. In late August 2019, Od Sayavong, a 34-year-old Lao activist, disappeared in Bangkok.¹⁴ Od Sayavong was a member of "Free Lao", an informal group of Lao migrant workers and activists based in Bangkok and neighboring provinces that advocates for human rights and democracy in Laos. Od was last seen on 26 August 2019, when he left his residence to join his co-workers for dinner at the restaurant where he was employed.¹⁵

Enforced disappearance, as defined in international law, is still not recognized as a criminal offense in Thailand's legal system. A draft Prevention and Suppression of Torture and Enforced Disappearance Act, which was adopted by the Thai cabinet in December 2016, has been under review and discussion since 2017. The National Legislative Assembly (NLA), the unicameral legislative body appointed by the military junta in July 2014, failed to pass the proposed law before its dissolution in May 2019. The bill is now pending before the Parliament elected in the March 2019 polls.

In addition, Thailand has not finalized the process to become a state party to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). As of 25 April 2020, the Thai government had not yet deposited the instrument of ratification with the UN Secretary-General. Thailand signed the ICPPED on 9 January 2012.

New cases of extrajudicial killings also emerged. On 16 December 2019, members of a security task force fatally shot three unarmed civilians who were cutting logs in Rangae District, Narathiwat Province, because they suspected the three of being members of insurgency groups.¹⁶ After a preliminary investigation, the commander of the Fourth Army Region reversed his early statement that the civilians had two guns and further stated that the killed civilians did not have a record of being affiliated with insurgency groups.¹⁷ The commander said that the officers who killed the three civilians surrendered to local police on 19 December 2019.¹⁸

After several years, justice remains elusive in two separate cases involving members of Thailand's ethnic minorities killed by Thai Army soldiers. In both cases, the perpetrators are yet to be held accountable. Thirty-two-year-old ethnic Lisu Abe Sae Moo was killed by a Thai Army soldier on 15 February 2017 in Chiang Dao Sub-district, Chiang Mai Province. Seventeen-

¹² Bangkok Post, *DSI: Karen rights activist Billy was killed*, 3 September 2019

¹³ Bangkok Post, *Prosecutors drop 'Billy' murder charges against park officials*, 24 January 2020; Nation, *Billy murder case: DSI studying prosecutors' decision to drop charges against national park ex-chief*, 28 January 2020

¹⁴ FIDH, *Investigate disappearance of Lao activist seeking asylum*, 6 September 2019

¹⁵ FIDH, *Investigate disappearance of Lao activist seeking asylum*, 6 September 2019

¹⁶ Bangkok Post, *Officers in shooting 'mistake' to surrender*, 19 December 2019

¹⁷ Benarnews, *Three Civilians Killed During Jungle Encounter in Thai Deep South, Army Commander Says*; Isranews, *three civilians shot death at Ra-ngae*, 20 December 2019 [in Thai], <https://www.isranews.org/content-page/67-south-slide/83708-lie.html>

¹⁸ Bangkok Post, *Officers in shooting 'mistake' to surrender*, 19 December 2019

year-old ethnic Lahu activist Chaiyaphum Pasae was killed by a Thai Army soldier on 17 March 2017, at a military checkpoint in Chiang Dao Sub-district, Chiang Mai Province.¹⁹ Amid delays in the police investigations and military prosecutions in both cases, on 22 May 2019, the families of the two filed a joint civil lawsuit to the Civil Court in Bangkok to demand the court order the Thai Army to pay a total of 11 million baht (approximately 350,000 euros) in compensation for the two deaths.²⁰

Deaths in custody still reported

Allegations of torture and ill-treatment of detainees by law enforcement officials continue to be reported in places of detention across the country. Reports of deaths in police and military custody as a result of torture also continued to surface. Thai authorities have regularly failed to hold those responsible accountable.

On 17 April 2020, a group of men in camouflage uniforms, who claimed to be soldiers conducting an anti-drug operation, arrested two brothers, Yutthana Saisa and Nathapong Saisa, 33 and 29 respectively, at a rubber plantation in That Phanom District, Nakhon Phanom Province, and took them into custody at a military operations center in Fang Daeng Sub-district.²¹ In the early hours of 18 April 2020, Yutthana and Nathapong's parents received a call from an unidentified man who told them to go to That Phanom Crown Prince Hospital, where their elder sons were receiving treatment for injuries. Upon arrival at the hospital, the two brothers' parents were informed that Yutthana had died. From Yutthana's appearance, they believed he had been beaten.²² The parents later found Nathapong at the military operations center in Fang Daeng Sub-district with two broken ribs and bruising all over his body.²³ On 20 April 2020, seven soldiers confessed to having tortured the two brothers to force them to admit to drug trafficking. A commanding officer said the soldiers would be investigated in line with military regulations.²⁴

Deaths of military cadets or conscripts at military facilities under suspicious circumstances also continued to be reported in Thailand. The Thai Army has consistently denied any wrongdoing by military officers under their command and no thorough impartial investigations have been conducted.

On 17 May 2019, Private Leuchanont Nantabut, a 22-year-old conscript based at the Military Police Battalion under the Thai Armed Forces Headquarters in Bangkok, went missing. His body was found four days later within the Military Police Battalion camp.²⁵ On 23 May 2019, Royal Thai Armed Forces Headquarters' spokesperson Major General Kris Channiyom said that a preliminary investigation suggested Leuchanont had fallen down while trying to secretly climb a building to get into a recreation area and denied that Leuchanont had been beaten.²⁶ However, Leuchanont's father reported that his son had told him about two weeks before his death that he had a conflict with a more senior soldier and he was afraid that he would be

¹⁹ AFP, *Thai soldier who killed activist to face charge: police*, 22 March 2017

²⁰ Bangkok Post, *Military killings case taken to Civil Court*, 23 May 2019

²¹ Bangkok Post, *Man dies, brother injured in military custody*, 20 Apr 2020

²² Bangkok Post, *Man dies, brother injured in military custody*, 20 Apr 2020

²³ Bangkok Post, *Man dies, brother injured in military custody*, 20 Apr 2020

²⁴ Bangkok Post, *Soldiers admit to torturing siblings, one of whom died*, 21 April 2020

²⁵ Nation, *Another family grieves mysterious death in Thai army*, 23 May 2019

²⁶ Nation, *Another family grieves mysterious death in Thai army*, 23 May 2019

attacked and killed.²⁷ The family received conflicting reports from soldiers from their son's unit: one said he died in his sleep; another said he was accidentally electrocuted; another said that he had fallen from a six-story building.²⁸ The post-mortem report said Leuchanont's death was caused by the impact of a blunt object that broke his ribs.²⁹ On 24 May 2019, it was reported that Chief of Defense Forces Gen Pornpipat Benjasri had appointed a military panel to investigate Leuchanont's death.³⁰ However, no results of the investigation have been publicly announced.

Use of military detention facilities increases risk of torture

Military bases continue to be used to detain civilians, and allegations of torture in detention by military personnel have continued to surface, particularly in Thailand's Southern Border Provinces.

On 14 March 2019, Masukri Salae, a 36-year-old man, was arrested and taken to the Ingkhayut Army Camp, Pattani Province, for questioning.³¹ Two days later, he was sent to Pattani General Hospital after becoming unconscious. Authorities claimed that he had fallen in the military camp's toilet block.³² The Thai human rights NGO Cross-Cultural Foundation (CrCF) alleged that during questioning at the military camp, Masukri was forced to stand for two nights and three days, and only allowed to sit for praying or eating.³³ CrCF also alleged that "certain officers in charge" repeatedly kicked Masukri's legs, hit him on his head with a baton wrapped in cloth, and deprived him of sleep.³⁴

On 25 August 2019, Abdulloh Esomusor, a 34-year-old construction worker, was pronounced dead after 35 days in ICU at Songklanagarind Hospital in Songkhla Province. According to the hospital, his cause of death was acute pneumonia and septic shock.³⁵ Abdulloh was first arrested at his house on 20 July 2019 and taken to the Ingkhayut Army camp in Pattani Province after authorities suspected him of involvement in a local insurgent group.³⁶ On the following morning, Abdulloh was found unconscious in the military camp's toilet block. He was then transferred to Pattani General Hospital and, on 22 July 2019, to Songklanagarind Hospital.³⁷ In November 2019, the police DSI said it was investigating the case.³⁸

²⁷ Nation, *Another family grieves mysterious death in Thai army*, 23 May 2019

²⁸ Nation, *Another family grieves mysterious death in Thai army*, 23 May 2019

²⁹ Nation, *Another family grieves mysterious death in Thai army*, 23 May 2019

³⁰ Bangkok Post, *Military panel set up to look into conscript's death*, 24 May 2019

³¹ CrCF, *Press Release: Investigate alleged torture of a suspected insurgent in military detention and stop the use of special laws to arrest and detained suspects without charge*, 21 March 2019

³² CrCF, *Unofficial translation of ISOC4's statement on the case of Mr. Masukri*, 20 March 2019

³³ CrCF, *Press Release: Investigate alleged torture of a suspected insurgent in military detention and stop the use of special laws to arrest and detained suspects without charge*, 21 March 2019

³⁴ CrCF, *Press Release: Investigate alleged torture of a suspected insurgent in military detention and stop the use of special laws to arrest and detained suspects without charge*, 21 March 2019

³⁵ Bangkok Post, *South suspect dies in hospital*, 26 August 2019

³⁶ Bangkok Post, *South suspect dies in hospital*, 26 August 2019

³⁷ Bangkok Post, *South suspect dies in hospital*, 26 August 2019

³⁸ Prachatai, *DSI set the investigation team for the case of Abdullah*, 12 November 2019 [in Thai],

<https://prachatai.com/journal/2019/11/85128>

Implementation of the recommendations made on conditions of detention (ICCPR, Articles 7 and 10)

RECOMMENDED GRADE: 'C'

*"The State party should continue to strengthen its efforts to improve conditions of detention by taking practical measures to reduce overcrowding, particularly by promoting alternatives to detention. It should also increase efforts to guarantee the right of detainees to be treated with humanity and dignity and ensure that conditions of detention in all of the country's prisons are compatible with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)."*³⁹

We recommend that the CCPR give Thailand a 'C' grade on the implementation of the recommendations made on conditions of detention, as Thailand has failed to take tangible steps to reduce overcrowding, guarantee that detainees are treated with humanity and dignity, or ensure that conditions of detention in all Thai prisons are in line with international standards, as recommended by the CCPR.

Overcrowding persists as prison population soars

High levels of overcrowding remain a persistent problem in Thai prisons, with the number of prisoners in Thailand having steadily increased since its review by the CCPR in March 2017.

Thailand's prison population reached an all-time high of 386,902 inmates in May 2019. As of 1 April 2020, Thailand had a prison population of 379,190 inmates (331,405 men and 47,785 women) – a 32% increase since the committee's review in March 2017.⁴⁰ The vast majority of prisoners (300,959 inmates or 79%) remain jailed for drug-related crimes.⁴¹ As of 16 April 2020, there were 337 prisoners (285 men and 52 women) under death sentence – many of whom (56% of the men and 98% of the women) had been found guilty of drug-related offenses.⁴²

In a concerning statement on 22 July 2019, Justice Minister Somsak Thepsuthin said he aimed at limiting the total number of inmates nationwide to around 370,000 – a level at which Thailand's prisons are already severely overcrowded.⁴³ Given the Thai prison system's official capacity for 123,000 inmates,⁴⁴ the occupancy level of Thai jails now stands at more than 300%.

In an attempt to downplay the issue of overcrowding, the authorities have progressively lowered capacity measurement standards by reducing the space per person to less than one

³⁹ Human Rights Committee, *Concluding observations on the second periodic report of Thailand*, 25 April 2017, UN Doc. CCPR/C/THA/CO/2, Para. 34

⁴⁰ Department of Corrections, *Statistics of incarcerated persons nationwide*, 1 April 2020 [in Thai], http://www.correct.go.th/rt103pdf/report_result.php?date=2020-04-01&report=; Department of Corrections, *Statistics of incarcerated persons nationwide*, 1 March 2017 [in Thai], <http://www.correct.go.th/stat102/display/result.php?date=2017-03-01&Submit=%B5%A1%C5%A7>

⁴¹ Department of Corrections, *Statistics of incarcerated persons under Narcotics Act nationwide*, 1 January 2020 [in Thai], http://www.correct.go.th/rt103pdf/report_result.php?date=2020-04-01&report=drug

⁴² Department of Corrections, *Statistics of prisoners under death sentence*, 23 April 2020 [in Thai], <http://www.correct.go.th/executed/filepdf/1587628933.xls>

⁴³ Nation, *Justice Ministry eyes prison reform*, 19 August 2019

⁴⁴ Bangkok Post, *TIJ suggests non-custodial measures in response to COVID-19*, 9 April 2020

square meter.⁴⁵ An official from Samut Prakan Central prison, on the eastern outskirts of Bangkok, confirmed that an “area of one square meter must be allocated for a pair of inmates,” and that prisoners had to “sleep diagonally.”⁴⁶ This situation prompted Justice Minister Somsak Thepsuthin to say that such capacity measurements provided “less room for a body than the inside of a coffin.”⁴⁷

In late December 2019, the surveillance cameras at Lang Suan prison in Chumphon Province were hacked and footage showing inmates living in overcrowded conditions was posted online on YouTube.⁴⁸ In a puzzling response, Justice Minister Somsak Thepsuthin said the leaked footage damaged the reputation of Thai prisons and may have violated the rights of inmates.⁴⁹

Aside from the granting of royal amnesties over recent years, the government has failed to adopt any effective policy measures to decongest prisons and has instead pursued a piecemeal approach in an attempt to address overcrowding in correctional facilities. In February 2020, it was reported that the government had approved a plan to expand the size of sleeping quarters in 93 of the country’s 143 prisons.⁵⁰

Timid attempts to implement non-custodial measures have failed to reduce prison congestion. In April 2020, the Department of Corrections said that between October 2019 and March 2020, 7,890 prisoners were released as a result of a government’s plan to suspend the sentences of certain categories of inmates.⁵¹ However, during the same period of time, Thailand’s prison population increased by more than 15,000 inmates.

The Ministry of Justice’s initiative that allowed courts to issue electronic monitoring (EM) ankle devices to certain categories of detainees awaiting trial has also faltered. On 20 September 2019, Justice Minister Somsak Thepsuthin announced the Ministry had cancelled the contract for the lease of 4,000 Chinese-made EM devices because it was found that the devices could be easily removed.⁵² In addition, the devices frequently malfunctioned and some of the paroled detainees reported the devices caused itchy or infected rashes.⁵³

Conditions in prisons remain below international standards

Conditions in Thai prisons remain well below international standards. Ongoing reports of deaths of prisoners have raised concerns over the seriously inadequate detention conditions, as well as the neglect of prisoners by prison authorities.

⁴⁵ Department of Corrections, *Thailand prison capacity surveyed on 2 April 2018*, April 2018 [in Thai], <http://www.correct.go.th/?p=12360>

⁴⁶ Bangkok Post, *Prisons buckle under overcrowding*, 9 February 2020

⁴⁷ Bangkok Post, *Prisons buckle under overcrowding*, 9 February 2020

⁴⁸ Bangkok Post, *Hacked security footage from cramped Thai prison posted on Youtube*, 25 December 2019

⁴⁹ Bangkok Post, *Hacked security footage from cramped Thai prison posted on Youtube*, 25 December 2019

⁵⁰ Department of Corrections, *Thailand prison capacity surveyed on 2 April 2018*, April 2018 [in Thai], <http://www.correct.go.th/?p=12360>

⁵¹ Bangkok Post, *8,000 inmates released to ease risk*, 14 Apr 2020; Nation, *Thousands of prisoners released 'to ease crowding in jails*, 16 April 2020

⁵² Bangkok Post, *Justice cancels contract for flawed electronic tags*, 20 September 2019

⁵³ Thai PBS World, *Probation Department’s rented EMs for paroled prisoners are useless*, 26 August 2019

Between 29 December 2019 and 4 January 2020, four inmates died in Phitsanulok prison.⁵⁴ In early January 2020, Thai authorities initially attributed their death to toxic goiter caused by the consumption of contaminated food.⁵⁵ However, a subsequent statement by Department of Corrections' Director-General that reported that "the environment and food sanitation at the prison were up to safety standards" was in stark contrast to the Justice Minister's decision a few days later to transfer the Phitsanulok prison chief to the Department of Corrections for "negligence and bad management" in connection with the death of the four inmates.⁵⁶ The results of an investigation into the cause of death of the four were pending as of late January 2020.⁵⁷

Between April and August 2018, a team from FIDH and UCL conducted visits to nine of the 12 correctional facilities that, as of December 2018, Thailand's Department of Corrections designated as 'model' prisons for women.⁵⁸ The designation stemmed from the Department of Corrections' claim that these facilities had successfully implemented the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (also known as the 'Bangkok Rules').

However, the result of observations conducted by FIDH and UCL during their visits revealed that conditions in these facilities were below international standards.

At the time of the start of the FIDH/UCL visits (April 2018), the main issue of concern remained overcrowding. According to Department of Corrections statistics, eight of the nine 'model prisons' visited by FIDH and UCL had occupancy levels above 100%, with a maximum of 652% in Thanya Buri Women's Penitentiary.⁵⁹ In April 2020, occupancy levels in all nine 'model' prisons remained very high, and the number of prisoners had increased in seven of the nine facilities.

Other important areas where deficiencies and challenges were observed in the nine prisons were: the quality of food; healthcare services, including with regard to mental health; prison labor conditions; contact with the outside world; and access to information from the outside world and punishment and disciplinary measures. With respect to punishment and discipline, the measures used on prisoners were often inconsistent with international minimum

⁵⁴ Bangkok Post, *Jail deaths likely caused by meals*, 7 January 2020

⁵⁵ Nation, *Prisoners may have died from toxic goiter*, 6 January 2020

⁵⁶ Nation, *Prisoners may have died from toxic goiter*, 6 January 2020; Bangkok Post, *Phitsanulok prison chief transferred over inmate deaths*, 14 January 2020

⁵⁷ Bangkok Post, *Prison chief faces inmate deaths probe*, 30 January 2020

⁵⁸ The nine prisons are: (1) Phra Nakon Ayutthaya Provincial Prison – 11 April 2018; (2) Samut Sakhon Central Prison – 23 April 2018; (3) Thanya Buri Women's Penitentiary (Special Women's Correctional Institution) – 25 April 2018; (4) Chiang Mai Women's Correctional Institution – 9 May 2018; (5) Fang District Prison – 10 May 2018; (6) Chiang Rai Central

Prison – 11 May 2018; (7) Phitsanulok Women's Correctional Institution – 6 August 2018; (8) Tak Central Prison – 8 August 2018; (9) Chonburi Women's Correctional Institution – 31 August 2018.

⁵⁹ This calculation of the occupancy levels is based on a surface area of 2.25m² per prisoner, the prison population in April 2018, and the standard occupancy level in April 2018, retrieved from Department of Corrections, *Thailand prison population statistics*, 1 April 2018 [in Thai], http://www.correct.go.th/rt103pdf/report_result.php?date=2018-04-01&report=, and Department of Corrections, *Thailand prison capacity surveyed on 2 April 2018*, April 2018 [in Thai], <http://www.correct.go.th/?p=12360>

standards, and, in some cases, may amount to torture or ill-treatment.⁶⁰ In many of the prisons, the special arrangements for pregnant prisoners and women prisoners with babies were also a challenge, including the shortage of sanitary napkins and other toiletries.⁶¹

⁶⁰ FIDH, *Not so model: The reality of women incarcerated in Thailand's 'model' prisons*, 11 December 2019, <https://www.fidh.org/en/region/asia/thailand/not-so-model-the-reality-of-women-incarcerated-in-thailand-s-model>

⁶¹ FIDH, *Not so model: The reality of women incarcerated in Thailand's 'model' prisons*, 11 December 2019, <https://www.fidh.org/en/region/asia/thailand/not-so-model-the-reality-of-women-incarcerated-in-thailand-s-model>