



# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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## Committee against Torture

### Concluding observations on the second periodic report of Thailand\*

1. The Committee considered the second periodic report of Thailand<sup>1</sup> at its 2148th and 2151st meetings,<sup>2</sup> held on 5 and 6 November 2024, and adopted the present concluding observations at its 2166th meeting, held on 19 November 2024.

#### A. Introduction

2. The Committee expresses its appreciation to the State party for accepting the simplified reporting procedure and submitting its periodic report thereunder, as this improves the cooperation between the State party and the Committee and focuses the examination of the report and the dialogue with the delegation.

3. The Committee also expresses its appreciation for having had the opportunity to engage in a constructive dialogue with the State party's delegation, and for the responses provided to the questions and concerns raised during the consideration of the report.

#### B. Positive aspects

4. The Committee welcomes the withdrawal by the State party of its interpretative declarations to articles 1, 4 and 5 of the Convention. It also welcomes the ratification or acceptance of or accession to the following international instruments by the State party:

(a) The Optional Protocol to the Convention on the Rights of Persons with Disabilities, on 2 September 2016;

(b) The Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29), of the International Labour Organization, on 4 June 2018;

(c) The International Convention for the Protection of All Persons from Enforced Disappearance, on 14 May 2024.

5. The Committee also welcomes the State party's initiatives to revise and introduce legislation in areas of relevance to the Convention, including the adoption of the following:

(a) The Justice Fund Act B.E. 2558 (2015), reinforcing the system of legal aid in the State party, in 2015;

(b) Amendments to the Prevention and Suppression of Human Trafficking Act B.E. 2558 (2015) and B.E. 2560 (2017), along with the Human Trafficking Criminal Procedure

\* Adopted by the Committee at its eighty-first session (28 October–22 November 2024).

<sup>1</sup> CAT/C/THA/2.

<sup>2</sup> See CAT/C/SR.2148 and CAT/C/SR.2151.



Act B.E 2559 (2016), strengthening protections for victims of trafficking in persons, between 2015 and 2017;

(c) Amendments to the Criminal Procedure Code, introducing sections 161/1 and 165/2, aimed at protecting the right to freedom of expression against strategic litigation against public participation, in 2018;

(d) The Act on the Promotion of the Development and Protection of the Family Institution B.E. 2562 (2019), aimed at increasing protections for victims of domestic and gender-based violence, in 2019;

(e) The Prevention and Suppression of Torture and Enforced Disappearance Act B.E. 2565 (2022), aimed at strengthening safeguards against and accountability for torture and cruel, inhuman or degrading treatment or punishment, including enforced disappearance, in 2022.

6. The Committee commends the State party's initiatives to modify its policies and procedures in order to afford greater protection of human rights and to apply the Convention, in particular the following:

(a) The Regulation permitting Non-Governmental Organizations to Establish Shelters to Assist Victims of Trafficking B.E. 2560 (2017), extending additional protections to victims of trafficking in persons;

(b) Regulations of the Department of Corrections relating to body searches for new inmates and incoming and outgoing inmates B.E. 2561 (2018), introducing new safeguards for inmates during body searches;

(c) The Memorandum of Understanding on the Determination of Measures and Approaches Alternative to the Detention of Children in Immigration Centres (2019), improving protections for migrant children and their family members;

(d) The Fourth National Action Plan on Combating Violence Against Women (2021–2025);

(e) The Fifth National Human Rights Plan (2023–2027);

(f) The Second National Action Plan on Business and Human Rights (2023–2027).

## C. Principal subjects of concern and recommendations

### Pending follow-up issues from the previous reporting cycle

7. In its previous concluding observations,<sup>3</sup> the Committee requested the State party to provide information on its implementation of the Committee's recommendations on: (a) ensuring or strengthening legal safeguards for detained persons (paras. 12 and 13); (b) conducting prompt, impartial and effective investigations of allegations of torture by law enforcement personnel (para. 15); and (c) prosecuting suspects and sanctioning perpetrators of torture or ill-treatment (para. 18). In the light of the information included on those matters in the follow-up report submitted by the State party on 29 May 2015<sup>4</sup> and with reference to the Committee's letter to the State party dated 29 August 2016,<sup>5</sup> the Committee considered that the recommendations contained in paragraphs 13 and 15 had been only partially implemented, while the recommendations contained in paragraphs 12 and 18 had not yet been implemented (see paras. 16, 18 and 20 of the present document).

### Definition and criminalization of torture

8. The Committee takes note of the important legislative initiatives undertaken by the State party to bring its domestic legislation into conformity with its obligations under the

<sup>3</sup> CAT/C/THA/CO/1, para. 31.

<sup>4</sup> CAT/C/THA/CO/1/Add.1.

<sup>5</sup> See

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FFUL%2FTHA%2F25024&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FFUL%2FTHA%2F25024&Lang=en).

Convention, in particular the adoption of the Prevention and Suppression of Torture and Enforced Disappearance Act. Nevertheless, the Committee expresses concern that the definition of torture, as established under the Act, is not fully in line with the definition of torture as established in article 1 of the Convention. In this regard, the Committee is concerned that section 5 of the Act provides an exhaustive list of purposes constitutive of an act of torture, while the list of purposes contained in article 1 of the Convention is enumerative. In addition, while section 42 of the Act provides for penalties for superior officers when they are aware that torture is occurring and fail to act to prevent or punish it, it does not provide for sanctions in cases where superior officers ought to have known that impermissible conduct was occurring, or was likely to occur, and failed to take reasonable and necessary preventive measures.<sup>6</sup> The Committee is also concerned that the Act omits language that was contained in earlier versions of the legislation that would have made it clear that the law on amnesty and any legal exemptions to accountability for State officials would not apply to the crime of torture and other offences under the legislation (arts. 1, 2 and 4).

9. **The State party should ensure that its domestic legislation is in full conformity with the Convention by ensuring that the list of purposes for torture contained in the Prevention and Suppression of Torture and Enforced Disappearance Act is established as illustrative, rather than exhaustive. The State party should also ensure that its legislation clearly provides criminal liability for any superior or commander who is, or should be, aware that a subordinate is carrying out or may carry out an act of torture but fails to take appropriate action to prevent the act, and that the law on amnesty and any legal exemptions to accountability for State officials do not apply to offences under the Act.**

#### **Statute of limitations and Tak Bai incident**

10. The Committee expresses its profound regret regarding the violation of the rights suffered by the families of victims by virtue of the expiry of the statute of limitations for the so-called Tak Bai incident on 25 October 2024, and the associated discontinuation of prosecutions in connection with the deaths of 85 individuals at the hands of Thai security forces without the perpetrators having been brought to justice. In this regard, the Committee regrets that the Prevention and Suppression of Torture and Enforced Disappearance Act did not revoke the statute of limitations for the crimes covered by that legislation and that, as such, a statute of limitations of between 1 and 10 years continues to apply to such crimes, in accordance with section 95 of the Criminal Code. The Committee considers that elimination of the statute of limitations for such crimes would represent an essential step in guaranteeing the non-repetition of such violations in the future (arts. 2 and 4).

11. **The State party should ensure that the crimes of torture and enforced disappearance are not subject to any statute of limitations, in order to preclude the risk of impunity for the perpetrators of such crimes.**

#### **National human rights institution**

12. The Committee welcomes the A status granted to the National Human Rights Commission of Thailand by the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions in 2022. However, the Committee is concerned that the Organic Act of the National Human Rights Commission of Thailand, adopted in 2017, removes the Commission's power to file lawsuits and provide opinions to the Constitutional Court and the Administrative Court. The Committee is also concerned that the Commission's regional offices in the southern border provinces may lack the human and technical resources necessary to adequately carry out their mandate (art. 2).

13. **The State party should provide the National Human Rights Commission of Thailand with the human and other resources necessary to discharge its mandate effectively and with full independence, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the**

<sup>6</sup> General comment No. 2 (2007), para. 26.

**Paris Principles), and consider restoring the mandate of the Commission to file lawsuits and provide opinions to the Constitutional Court and the Administrative Court, including as they relate to allegations of torture or ill-treatment.**

#### **Monitoring of places of deprivation of liberty**

14. The Committee is concerned that the National Human Rights Commission of Thailand is restricted in its ability to carry out monitoring of places of detention in the State party, including in facilities under the purview of the Department of Corrections. The Committee is also concerned about the limited access provided to the Commission to immigration detention centres and places of deprivation of liberty in the southern border provinces, including access refusals, restricted movement within facilities and impediments to carrying out confidential interviews with detainees. Furthermore, the Committee regrets the minimal role played by civil society organizations in monitoring places of deprivation of liberty in the State party, noting information received indicating that requests to conduct such visits are frequently denied (arts. 2, 11 and 16).

#### **15. The State party should:**

(a) **Ensure that the National Human Rights Commission of Thailand is able to carry out independent, unhindered and unannounced inspections and monitoring visits to all places of deprivation of liberty in the country and speak confidentially to all detained persons, without the presence of prison or other officials, and that persons providing information are protected from any risk of reprisal or intimidation;**

(b) **Enhance the role played by non-governmental organizations with a mandate to visit places of deprivation of liberty in monitoring places of detention, including by ensuring their representation in monitoring bodies and considering favourably their requests to conduct visits to places of deprivation of liberty, including psychiatric and social care institutions, and interview the persons held therein;**

(c) **Consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

#### **Work of the National Committee on the Prevention and Suppression of Torture and Enforced Disappearance**

16. The Committee welcomes the establishment of the National Committee on the Prevention and Suppression of Torture and Enforced Disappearance under the Prevention and Suppression of Torture and Enforced Disappearance Act, but is concerned about reports of its slow progress, including the low number of meetings that it has held thus far and the fact that, one year after the adoption of the Act, only one case has reached the courts under the new legislation. The Committee is also concerned that the National Committee lacks representation from victims, that it is largely composed of security-oriented officials and that the inclusion of such officials from agencies such as the Ministry of Defence, the Ministry of Interior and the Royal Thai Police, against whom many of the allegations of torture and enforced disappearance are made, raises concerns about whether the direct responsibility of the National Committee for carrying out investigations under the Act is consistent with the principle that there should be no hierarchical or institutional links between investigators and alleged perpetrators. The Committee is further concerned about reports regarding insufficient staffing and resources to carry out the programmes that the National Committee is responsible for overseeing, including, for example, the resources needed to ensure the implementation of the legislative requirements for audio and video recordings of detentions and interrogations, the establishment of a centralized system for managing complaints and the ongoing training of all stakeholders with the aim of ensuring full understanding and implementation of the Act. Lastly, the Committee is concerned about the lack of information made available to victims and to the public pertaining to the work of the National Committee (arts. 2, 4, 11–13 and 16).

#### **17. The State party should:**

(a) **Ensure that all complaints of torture or ill-treatment are investigated in a prompt, effective and impartial manner by an independent mechanism and that there**

is no institutional or hierarchical relationship between the mechanism's investigators and the suspected perpetrators of such acts;

(b) **Enhance transparency regarding the work of the National Committee on the Prevention and Suppression of Torture and Enforced Disappearance, including by regularly keeping victims and the public abreast of efforts and developments relevant to cases, intensifying efforts to ensure effective collaboration with civil society and ensuring the National Committee's prompt operationalization, and consider amending the Prevention and Suppression of Torture and Enforced Disappearance Act to include victims of torture and ill-treatment, including enforced disappearance, in the membership of the National Committee;**

(c) **Ensure the precise interpretation and understanding of the terms and requirements of the Prevention and Suppression of Torture and Enforced Disappearance Act, including by considering developing and publishing an authoritative manual or guidelines for interpreting and implementing the Act, with clear explanations of the international standards relevant to its terms;**

(d) **Ensure that adequate funding and staffing are made available to carry out the programmes that the National Committee is responsible for overseeing, including the requirements for audio and video recording of detentions and interrogations under the Act, the need for a fully functioning centralized system for managing complaints and continued education and training for all stakeholders to help ensure full understanding and implementation of the Act, and also ensure that the number of full-time staff is sufficient for the work of the National Committee to be carried out effectively;**

(e) **In line with its mandate to research and disseminate knowledge relating to torture, compile and make available to victims and to the general public disaggregated data on the number of complaints of torture and ill-treatment, including enforced disappearance, received by all bodies mandated with their investigation, along with data on all investigations, disciplinary measures, prosecutions and convictions that have taken place, including information on the punishments handed down to perpetrators and whether victims received redress.**

#### **Fundamental legal safeguards**

18. While noting the inclusion of several legislative safeguards against torture and ill-treatment in the Criminal Procedure Code, along with new safeguards that have been introduced by the Prevention and Suppression of Torture and Enforced Disappearance Act, the Committee expresses concern over information received indicating that persons deprived of their liberty are not, in law or in practice, always provided with sufficient legal safeguards from the outset of their detention, including that:

(a) The provisions contained in the Prevention and Suppression of Torture and Enforced Disappearance Act requiring continuous audiovisual recording from the moment of detention and the notification of the public prosecutor and district chief in all cases of detention are not always interpreted consistently or applied in practice, in particular in the southern border provinces, where other legislative frameworks are also in place, and notably in cases where individuals have been "invited" by police or security forces to provide interviews and had their liberty effectively restricted, without being officially regarded as detained, or where the person in question is subjected to interrogation by an inquiry official;

(b) Despite section 87 of the Criminal Procedure Code, which requires that detained individuals be arraigned within 48 hours of detention, there exist multiple legal frameworks, inter alia, under the Martial Law Act B.E. 2457 (1914), the Emergency Decree on Public Administration in Emergency Situations B.E. 2548 (2005) and the Narcotics Prevention and Suppression Act B.E. 2519 (1976), under which there can be considerable deviation from this standard and which can, in some cases, result in a maximum period of detention of up to 37 days without a person being presented before a judge. Moreover, according to the information provided to the Committee, individuals detained under these legislative frameworks are frequently denied visitation, including visits from legal counsel, and in some cases are held incommunicado;

(c) Under section 12 of the Emergency Decree on Public Administration in Emergency Situations, detained individuals must be held in designated places of deprivation of liberty that are not police stations, detention centres, penal institutions or prisons, giving rise, in practice, to concerns over the use of unofficial detention centres and associated risks of torture and ill-treatment (art. 2).

19. **The State party should:**

(a) **Ensure that all fundamental legal safeguards are guaranteed, both in law and in practice, for all detained persons from the outset of their deprivation of liberty, including through the issuance of regulations and guidelines concerning the application of the safeguards contained in the Prevention and Suppression of Torture and Enforced Disappearance Act and the training of all government officials who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. In this regard, the Committee recommends that the State party be guided by, inter alia, the Principles on Effective Interviewing for Investigations and Information-Gathering;**

(b) **Consider reviewing its national security legislation to ensure that it fully conforms with international standards, including by ensuring that adequate and effective legal safeguards are in place. The State party should also ensure that emergency legislation and martial law are applied in a manner that respects the principles of necessity and proportionality and for as short a time as possible, and that their application is subject to consistent review;**

(c) **Guarantee the right to be promptly presented before a judge, including by ensuring that its legislation sets a maximum overall limit of 48 hours for review of the legality of arrest and detention by a judge, without exception;**

(d) **Guarantee the right to consult with a lawyer of a person's own choosing or, if needed, qualified, independent and free legal aid, and guarantee the confidentiality of private meetings, including prior to and during interrogation;**

(e) **Guarantee the right to notify a relative or another person of a person's own choosing of his or her detention immediately upon apprehension;**

(f) **Close all unofficial places of detention and order the immediate placement of persons who may be detained in such places, including persons suspected of national security-related offences or who may be detained for questioning under national security legislation, under court supervision and ensure that they enjoy all fundamental legal safeguards.**

**Allegations of torture and ill-treatment**

20. The Committee expresses concern about allegations of torture and ill-treatment in the State party, including excessive use of force by law enforcement, enforced disappearances, and torture and ill-treatment in the context of military operations in the southern border provinces. The Committee also expresses concern over allegations of torture and ill-treatment, in some cases resulting in death, of military recruits, noting that the provisions of the Military Discipline Act B.E. 2476 (1933) pose serious risks of abuse and may conflict with both domestic legislation and the State party's obligations under the Convention (arts. 2, 4, 11–13 and 16).

21. **The State party should:**

(a) **Carry out prompt, impartial, thorough, efficient and independent investigations into all allegations of torture and ill-treatment by law enforcement and intelligence officials, ensure that authorities open an investigation ex officio whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been committed, and ensure that those suspected of having committed such acts are immediately suspended from their duties throughout the period of investigation, while ensuring that the principle of presumption of innocence is observed;**

(b) **Prosecute all persons suspected of having committed torture or ill-treatment and, if they are found guilty, ensure that they receive sentences that are**

**commensurate with the gravity of their acts and that the victims and/or their family members are afforded appropriate redress and compensation in a timely manner;**

**(c) Review its laws and practices governing military discipline, including under the Military Discipline Act, with a view to ensuring full compliance with the obligations contained in the Convention and ensuring that adequate and effective legal safeguards are in place;**

**(d) Ensure the jurisdiction of civilian courts over all cases related to offences under the Prevention and Suppression of Torture and Enforced Disappearance Act, including all cases of torture, ill-treatment and wrongful death involving military recruits.**

### **Enforced disappearance**

22. While commending efforts to define and specifically criminalize enforced disappearance, the Committee regrets that the definition of enforced disappearance in domestic legislation does not fully conform with international standards, notably insofar as the domestic definition requires explicit denial by a public official of knowledge regarding the fate or whereabouts of the disappeared person. The Committee is concerned about the apparent lack of progress in investigating and prosecuting enforced disappearances in the State party. As examples, the Committee reiterates<sup>7</sup> its concern about the cases of Pholachi Rakcharoen (known as “Billy”) and Somchai Neelaphaijit, along with the withdrawal of State-provided witness protection for Mr. Neelaphaijit’s wife, Angkhana Neelapaijit, despite the continued harassment that she has reportedly experienced. The Committee expresses concern about allegations detailing a pattern of disappearances of Thai political activists abroad and of foreign political activists in Thailand, as brought to the State party’s attention by several special procedure mandate holders in 2020.<sup>8</sup> With regard to the disappearances of Thai nationals abroad, the Committee draws the attention of the State party to the disappearances of Itthiphol Sukpan, Wuthipong Kachathamakul, Surachai Danwattananusorn, Chatchan Bubphawan, Kraidej Luelert, Chuchee Chivasut, Kritsana Thapthai, Siam Theerawut and Wanchalearm Satsaksit, which special procedure mandate holders consider to have been inadequately investigated and prosecuted by Thai authorities. Concerning the disappearance of foreign political activists in Thailand, the Committee expresses concern about the cases of Od Sayavong, a human rights defender from the Lao People’s Democratic Republic who allegedly disappeared in Bangkok in 2019 and whose fate and whereabouts remain unknown, and Truong Duy Nhat, a blogger, journalist and human rights defender from Viet Nam who was allegedly arrested in January 2019 and was forcibly disappeared for two months until he was located in a detention facility in Viet Nam (arts. 2, 4, 9, 11–13, 14 and 16).

### **23. The State party should:**

**(a) Ensure that the definition of enforced disappearance in its domestic legislation is fully in line with the International Convention for the Protection of All Persons from Enforced Disappearance;**

**(b) Carry out prompt, impartial, thorough, efficient and independent investigations into all allegations of enforced disappearance, ensure that authorities open investigations ex officio whenever there are reasonable grounds for believing that enforced disappearance has occurred, and ensure that those suspected of having committed, authorized, supported or acquiesced in such acts are immediately suspended from their duties throughout the period of investigation, while ensuring that the principle of presumption of innocence is observed;**

**(c) Prosecute all persons suspected of having committed enforced disappearance and, if they are found guilty, ensure that they receive sentences that are**

<sup>7</sup> CAT/C/THA/CO/1, para. 14.

<sup>8</sup> See communication THA 8/2020. All communications mentioned in the present document are available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

commensurate with the gravity of their acts and that the victims and/or their family members are afforded appropriate redress and compensation in a timely manner;

(d) Taking into account the Guiding Principles for the Search for Disappeared Persons, allow victims, their legal representatives or any person authorized by them or others with a legitimate interest to take part in the search, including by providing them with prompt access to information on the action taken and on the progress and results of the search and the investigation and taking into account their input, suggestions, experiences, questions and doubts at all stages of the process;

(e) Use all available national and international cooperation mechanisms and, when necessary, establish such mechanisms, to resolve cases involving allegations of the enforced disappearance of Thai nationals abroad;

(f) Ensure that victims and all other persons participating in investigations into enforced disappearance are protected from any risk of intimidation or reprisal as a consequence of the complaint or any evidence given;

(g) Adopt measures to clarify the outstanding cases of enforced disappearance and favourably consider the request of the Working Group on Enforced or Involuntary Disappearances to visit the country.<sup>9</sup>

#### **Excessive use of force by law enforcement**

24. The Committee is concerned about reports of excessive use of force by law enforcement officers in the context of public assemblies, including the disproportionate use of tear gas and rubber bullets, such as in relation to the policing of pro-democracy protests between 2020 and 2022. The Committee notes with concern several instances in which unarmed protesters were blinded or otherwise seriously injured as a result of the use of rubber bullets. While acknowledging that in cases such as that of Tanakorn Parnpanich and Tanat Thanakitamnuy, Thai courts have awarded the victims compensation, the Committee expresses concern that, to date, Payu Boonsophon, who was shot in the eye with a rubber bullet in 2022, has yet to receive redress, and that no perpetrators have been held accountable in any of those cases (arts. 2, 4, 11–13 and 16).

#### **25. The Committee recommends that the State party:**

(a) Review its legislation on the use of force to ensure that it is fully consistent with international standards, develop clear guidelines incorporating internationally accepted standards of necessity and proportionality and strengthen its efforts to provide all law enforcement personnel with mandatory and comprehensive training on those international standards. In this regard, the Committee draws the State party's attention to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement and the Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests;

(b) Ensure that prompt, impartial, effective and independent investigations are undertaken into all allegations relating to torture, ill-treatment and the excessive use of force by law enforcement officers, that the perpetrators are prosecuted and receive sentences commensurate with the gravity of their acts and that victims receive redress;

(c) Consider equipping law enforcement officers with body cameras when policing public assemblies and, more generally, in all instances where force is likely to be used;

(d) Ensure that all persons are protected from any harassment or violence to which they might be exposed as a result of the exercise of their right of freedom of opinion and expression and their rights to freedom of association and peaceful assembly.

<sup>9</sup> [A/HRC/57/54](#), para. 32.



### Death penalty

26. While acknowledging the de facto moratorium on the death penalty observed by the State party since 2018, the Committee is concerned that courts continue to impose the death penalty in the State party, including for drug-related and other offences, at variance with article 6 (2) of the International Covenant on Civil and Political Rights. The Committee is also concerned that a significant number of persons remain on death row, including a significant number of women offenders sentenced for drug-related offences, and that death-row inmates have reportedly been excluded from drug rehabilitation and other programmes available to the general prison population (arts. 2 and 16).

**27. The State party should consider formalizing a moratorium on the death penalty and consider reviewing its legislation and policy to abolish it. If the death penalty is imposed, the State party should ensure that it is only for the most serious crimes and in compliance with international norms. It should also ensure that death-row inmates have access to drug rehabilitation and other programmes when necessary, take steps towards commuting the sentences of death-row inmates to prison sentences and consider acceding to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.**

### Deaths in custody

28. The Committee notes the provisions on deaths in custody under section 28 of the Prevention and Suppression of Torture and Enforced Disappearance Act but remains seriously concerned about the high number of deaths in custody and about reports that details concerning the circumstances of such deaths are not provided, that authorities routinely fail to carry out credible investigations except in a few high-profile cases that receive media attention and that, even where investigations are conducted, they rarely lead to criminal prosecutions or reparations for the families. Furthermore, while noting the data provided to the Committee by the State party on deaths in custody, the Committee regrets that no information regarding the cause of deaths in custody that were deemed to be unnatural was provided (arts. 2, 11–13 and 16).

**29. The State party should adopt measures to ensure that all deaths in custody are investigated in a prompt and impartial manner by an independent body, including by means of forensic examinations, with due regard to the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and, where appropriate, should prosecute those responsible and apply sanctions commensurate with the seriousness of the offence. The State party should also maintain and publish up-to-date and disaggregated data on deaths in all places of detention, their causes, the outcome of the investigations and the measures taken to ensure that family members are promptly notified.**

### Conditions of detention

30. The Committee takes note of efforts undertaken by the State party to improve conditions of detention in the penitentiary system but remains concerned that its prisons continue to face high levels of overcrowding, an associated lack of staff and deteriorating conditions of detention. The Committee notes with concern that more than 70 per cent of the total prison population has been incarcerated for drug-related offences and more than 20 per cent are pretrial detainees. The Committee expresses concern about the disproportionate effects felt by women, who experience high rates of incarceration as a result of strict anti-drug legislation and policies, and concern about allegations that women prisoners are frequently detained far from their families and lack access to feminine hygiene products and that pregnant and breastfeeding women face additional challenges in meeting their specific needs (arts. 2, 11 and 16).

**31. The State party should:**

(a) **Strengthen its efforts to improve conditions of detention and alleviate overcrowding in penitentiary institutions, including by training and recruiting sufficient numbers of qualified staff and through the greater use of non-custodial measures. In this regard, the Committee draws the State party's attention to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela**

Rules), the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);

(b) Ensure that untried prisoners are kept separate from convicted prisoners, as recommended in the Nelson Mandela Rules;

(c) Ensure that the special needs of women deprived of their liberty, including pregnant and breastfeeding women, are met, taking into account the Nelson Mandela Rules and the Bangkok Rules;

(d) Ensure that all measures necessary are taken to ensure the right of persons deprived of their liberty to the highest attainable standard of health, including through the provision of healthcare that takes into account the specific needs of different genders, redoubling efforts to combat communicable diseases and ensuring the widespread accessibility of drug rehabilitation programmes that provide not only psychological and social assistance, but also effective and continued medical interventions for detainees suffering from different forms of drug use disorders;

(e) Carefully consider the recommendations of the National Human Rights Commission of Thailand to reduce the use of excessive criminal penalties, reduce the reliance on criminal penalties for offences such as defamation and drug-related offences, abolish the automatic presumption that possession of narcotics is for the purpose of distribution and develop a more comprehensive list of offences that would be punishable only by fines. In doing so, the State party is invited to take into account the international guidelines on human rights and drug policy in the implementation of its prison and criminal policies on drugs.

#### **Immigration detention**

32. While noting steps taken by the State party to improve conditions for migrant children and their family members in detention, including through the Memorandum of Understanding on the Determination of Measures and Approaches Alternative to the Detention of Children in Immigration Centres, the Committee remains concerned that irregular migrants and stateless persons may be subject to criminal prosecution and indefinite detention, without proper access to judicial review, solely as a result of their irregular entry into the country or lack of personal documents. In addition, the Committee expresses grave concern over allegations raised by special procedure mandate holders of deplorable and life-threatening conditions in migration detention centres<sup>10</sup> that have reportedly resulted in the deaths of several detainees. The Committee notes with grave concern the special legislative framework applied to ethnic Uyghur and Rohingya migrants, many of whom are seeking international protection, who are denied access to the protected person status conferred by the national screening mechanism and who are instead subject to the purview of the National Security Council, without individualized determinations regarding their status (arts. 2, 3, 11–13 and 16).

33. **The State party should:**

(a) Ensure that administrative detention is applied only as a last resort, when determined to be strictly necessary and proportionate in the light of an individual's circumstances, and for as short a period as possible, with regular judicial review, both procedurally and upon application. The State party should also intensify its efforts to expand its application of non-custodial measures and ensure that children and families with children are not detained solely on the basis of their immigration status;

(b) Ensure that its legislation, including the Immigration Act B.E. 2522 (1979), conforms with international standards that prohibit criminal prosecution and indefinite detention for irregular entry;

(c) Ensure that the regime and conditions of immigration detention are fully compliant with international standards and designed in a manner befitting the status of

<sup>10</sup> See communication THA 2/2024.

persons who have not been criminally convicted or who have served their criminal sentences;

(d) **Ensure that all deaths in custody are investigated in a prompt and impartial manner by an independent body, including by means of forensic examinations, with due regard to the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and, where appropriate, prosecute those responsible and apply the corresponding sanctions;**

(e) **Ensure the unhindered access of the National Human Rights Commission of Thailand to all places of administrative detention, without the need for prior notification or authorization, and ensure that the Commission can conduct confidential interviews privately with persons deprived of their liberty without witnesses and that persons providing information are protected from any risk of reprisal or intimidation;**

(f) **Consider ratifying the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees, the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.**

### **Principle of non-refoulement**

34. The Committee notes with appreciation section 13 of the Prevention and Suppression of Torture and Enforced Disappearance Act, which establishes the non-derogable principle of non-refoulement in domestic legislation. However, the Committee is concerned about its application in practice, including with regard to allegations of the mass expulsion of asylum-seekers from Myanmar on 25 June 2024. The Committee expresses concern about the involuntary or forced repatriation of Vietnamese Montagnards, including Y Quynh Bdap, a human rights defender and refugee recognized by the Office of the United Nations High Commissioner for Refugees, as raised with the State party by special procedure mandate holders.<sup>11</sup> The Committee expresses concern that Mr. Bdap is at risk of refoulement, given that, in upholding his extradition under section 19 of Extradition Act B.E. 2551 (2008), the court of first instance dealing with his case concluded that it lacked competence to assess the due process standards of the Vietnamese judicial system (arts. 2, 3, 11–13 and 16).

35. **The State party should:**

(a) **Ensure in law and in practice that no one may be expelled, returned or extradited to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture, including by prohibiting mass expulsions;**

(b) **Ensure the right to an individualized determination of the risk of torture or ill-treatment that expulsion, return or extradition may present, by a judicial authority endowed with sufficient competence to make a determination that takes into account all necessary facts and circumstances, and guarantee effective access to procedural safeguards, including the right to appeal adverse decisions, with automatic suspensive effect.**

### **Gender-based and domestic violence**

36. The Committee is concerned that, despite the adoption of the Act on the Promotion of the Development and Protection of the Family Institution B.E. 2562 (2019), the implementation of the Act has been delayed by emergency decree and it has yet to enter into force. As such, the Committee reiterates its previous concerns<sup>12</sup> regarding lacunae in the protections provided by the Domestic Violence Victim Protection Act B.E. 2550 (2007), notably in relation to sections 4 and 15 thereof, which require victims to lodge complaints in order to initiate prosecutions and privilege the role of amicable settlements over victims' well-being and safety. It expresses concern about section 7 of the Act, which requires victims

<sup>11</sup> See communication THA 6/2024.

<sup>12</sup> [CAT/C/THA/CO/1](#), para. 16.

to lodge a complaint within three months of the occurrence of the alleged act, which has the potential to deprive a wide array of survivors of access to justice (arts. 2, 11–14 and 16).

**37. The State party should:**

(a) **Ensure that its domestic legislation relating to gender-based and domestic violence conforms with international standards and consider giving effect to the Act on the Promotion of the Development and Protection of the Family Institution as an initial step in this regard;**

(b) **Implement the Committee’s previous recommendations,<sup>13</sup> including by ensuring that all acts of gender-based and domestic violence, including those involving actions and omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are thoroughly investigated, including through the initiation of ex officio investigations, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately, and that victims or their families receive redress, including adequate compensation and rehabilitation.**

**Corporal punishment**

38. While expressing its appreciation for information provided by the State party regarding proposed legislation to prohibit abusive or violent action to punish and discipline children, the Committee regrets that the corporal punishment of children has not yet been fully prohibited in the home or in alternative care settings, as recommended during the universal periodic review (arts. 2, 4, 11–13 and 16).<sup>14</sup>

**39. The State party should prohibit the use of corporal punishment in all settings, including in the home and in alternative care settings, and raise public awareness of the prohibition of the use of corporal punishment against children and its consequences, along with the provision of information on the benefits of positive, participatory and non-violent forms of discipline.**

**Human rights defenders**

40. The Committee is concerned about recurring reports of attacks and reprisals against human rights defenders in the State party, involving threats, physical attacks, enforced disappearances and killings, including the reported killing of Roning Dalah, a vocal supporter of the right to rehabilitation of torture survivors, on 25 June 2024, the perpetrators of which have yet to be brought to justice. The Committee is also concerned about the alleged use of Pegasus software by State actors to surveil and harass women and lesbian, gay, bisexual and transgender human rights defenders, including through the use of online smear campaigns, along with the lack of progress of investigations into those allegations. Lastly, while noting recent amendments to sections 161 and 165 of the Criminal Procedure Code aimed at reducing the use of strategic litigation against public participation, the Committee remains concerned about reports of such litigation continuing to be used to deter human rights defenders from carrying out their work (arts. 2, 11–13 and 16).

**41. The State party should ensure that all human rights defenders are able to carry out their legitimate work in an enabling environment, free from threats, reprisals, violence or other forms of harassment. The State party should vigorously investigate promptly, thoroughly and impartially all allegations of torture, ill-treatment and harassment, including judicial harassment, of human rights defenders, prosecute alleged perpetrators and appropriately punish those found guilty, provide victims with redress and take appropriate steps to ensure that human rights defenders are effectively protected against strategic litigation against public participation lawsuits.**

**Training**

42. The Committee welcomes the significant efforts made by the State party to train relevant staff on the content of the Convention, including through its collaboration with the

<sup>13</sup> Ibid.

<sup>14</sup> [A/HRC/49/17](#), paras. 51.159–51.162

Office of the United Nations High Commissioner for Human Rights, other regional bodies and civil society organizations. However, the Committee regrets the lack of information provided by the State party regarding training conducted for judges and prosecutors. It is concerned that a significantly greater level of training may need to be provided to public officials regarding the Prevention and Suppression of Torture and Enforced Disappearance Act (art. 10).

43. **The State party should:**

(a) **Further develop and implement mandatory initial and in-service training programmes to ensure that all public officials, in particular law enforcement officers, military personnel, judicial officials, prison staff, judges and others who may be involved in the custody, interrogation or treatment of persons subjected to any form of arrest, detention or imprisonment, are fully acquainted with the provisions of the Prevention and Suppression of Torture and Enforced Disappearance Act and of the Convention, including the absolute prohibition of torture, and that they are fully aware that violations will not be tolerated and that those responsible will be prosecuted and, if convicted, appropriately punished. Similarly, the State party should continue its efforts to ensure the training of relevant officials on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), as revised;**

(b) **Develop and apply a methodology for assessing the effectiveness of educational and training programmes in reducing the number of cases of torture and ill-treatment and in ensuring the identification, documentation and investigation of such acts, as well as the prosecution of those responsible.**

#### **Impunity**

44. While expressing its appreciation for the information provided by the State party, the Committee remains concerned about the prevalence of criminal and civil immunity clauses in the State party's legislation, including section 14 of Order No. 3/2558 and section 9 of Order No. 13/2559 of the Head of the National Council for Peace and Order, section 17 of the Emergency Decree on Public Administration in Emergency Situations, section 16 of the Martial Law Act and sections 17, 28 and 30 of the Corrections Act B.E. 2560 (2017) (arts. 2, 4, 12, 13 and 16).

45. **The State party should review its legislation to ensure that all perpetrators of torture or ill-treatment are held accountable, including by repealing clauses that may serve to provide such perpetrators with criminal or civil immunity.**

#### **Redress**

46. The Committee expresses concern that relatives of victims who have lost their lives or are presumed dead have needed to possess a death certificate and autopsy report to qualify for compensation under the Damages for the Injured Persons and Compensation and Expenses for the Accused in Criminal Cases Act B.E. 2544 (2001), thus excluding many victims of enforced disappearance, and that actions for compensation under that Act have excessively short deadlines, in practice denying some victims their right to adequate compensation. At the same time, the Committee welcomes the process under way to develop and approve regulations on assistance, remedy and rehabilitation of victims in the State party, but regrets that it is perceived to lack transparency, due in part to the lack of representation of victims (art. 14).

47. **The State party should:**

(a) **Ensure that all victims of torture and ill-treatment, including victims of enforced disappearance, obtain redress, including by ensuring an enforceable right to fair and adequate compensation and the means for as full rehabilitation as possible;**

(b) **Consider amending the Damages for the Injured Persons and Compensation and Expenses for the Accused in Criminal Cases Act to ensure that all victims of torture and ill-treatment, including enforced disappearance, are able to obtain reparation, and extend or remove deadlines for lodging compensation claims;**

(c) **Promptly approve the draft regulations on assistance, remedy and rehabilitation of victims and ensure their conformity with international standards;**

(d) **Consider resuming its contributions to the United Nations Voluntary Fund for Victims of Torture.**

#### **Confessions obtained through the use of torture and ill-treatment**

48. While noting the information provided by the State party regarding Supreme Court Decision No. 711/2567, the Committee remains concerned that, in accordance with section 226/1 of the Criminal Procedure Code, the possibility remains of statements obtained through the use of torture being admitted as evidence if the Court considers such admission to be in the interests of justice (art. 15).

49. **The State party should:**

(a) **Revise its legislation to ensure that under no circumstances can any statements made as a result of torture be invoked as evidence, except against persons accused of committing torture, as evidence that the statement was made;**

(b) **Immediately, effectively and independently investigate all instances in which a statement is alleged to have been obtained through torture, and ensure that alleged perpetrators are prosecuted and, if found guilty, punished;**

(c) **Provide mandatory training to all police officers, national security officers and military personnel, judges and public prosecutors, emphasizing the link between non-coercive interrogation techniques, the prohibition against torture and ill-treatment and the obligation of the judiciary to invalidate confessions and witness statements made under torture, taking note, in that regard, of the Principles on Effective Interviewing for Investigations and Information-Gathering.**

#### **Data collection**

50. The Committee regrets that the State party did not provide it with comprehensive and disaggregated statistical data on all areas of relevance to its obligations under the Convention, including on cases of torture and other cruel, inhuman or degrading treatment or punishment, causes of deaths in custody and other matters on which such data were requested. The Committee notes that a focused and coordinated system of data compilation and analysis is necessary to effectively monitor the State party's implementation of its obligations under the Convention (arts. 2, 11–13 and 16).

51. **The State party should intensify its efforts to compile and publish comprehensive disaggregated statistical information on all matters relevant to its obligations under the Convention, including on all complaints and reports received of torture, ill-treatment, deaths in custody, enforced disappearance, excessive use of force and means of coercion, and abuse of power concerning public officials, including information on whether such complaints led to investigations and, if so, by which authority, whether the investigation resulted in the imposition of disciplinary measures or prosecutions and whether the victims obtained redress.**

#### **Follow-up procedure**

52. **The Committee requests the State party to provide, by 22 November 2025, information on follow-up to the Committee's recommendations on the statute of limitations; the adequate resourcing of the National Committee on the Prevention and Suppression of Torture and Enforced Disappearance; the use of administrative detention; and conditions in immigration detention (see paras. 11, 17 (d), 33 (a) and 33 (c) above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, the remaining recommendations in the present concluding observations.**

**Other issues**

53. **The State party is requested to widely disseminate the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations and to inform the Committee about its dissemination activities.**

54. **The Committee requests the State party to submit its next periodic report, which will be its third, by 22 November 2028. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its third periodic report under article 19 of the Convention.**

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