



Thailand's Compliance with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: The Death Penalty

Submitted by The Advocates for Human Rights

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and

The World Coalition Against the Death Penalty

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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law since its founding in 1983. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty (WCADP), an alliance of more than 150 NGOs, bar associations, local authorities, and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

EXECUTIVE SUMMARY

1. This report outlines violations of the Convention Against Torture in Thailand in the context of the death penalty and persons prosecuted for, charged with, and convicted of, capital crimes. As explained further below, torture is prevalent in detention facilities and impunity persists. Courts continue to impose death sentences, including for offenses that do not constitute the “most serious crimes.”
2. Overwhelmingly, Thailand’s retention of the death penalty and treatment of people on death row both illustrate and exacerbate Thailand’s failure to uphold its obligations under the Convention. There is insufficient legal aid available to people charged with death-eligible offenses. People in detention face ill-treatment and torture during interrogation, and measures to combat such coercion and torture have fallen short.
3. Thailand’s Department of Corrections has denied civil society organizations and international human rights groups access to places of detention for monitoring purposes. Drug-related offenses are death-penalty-eligible, and women on death row are disproportionately convicted of drug-related offenses. Prisons in Thailand remain overcrowded and under-resourced, resulting in poor detention conditions. People on death row have been denied access to work programs and drug rehabilitation programs available to the general prison population. Thailand retains a suite of laws which make it impossible for human rights defenders to bring incidents of torture to light without fear of reprisal, and Thailand continues to prosecute protesters, civil society members, and activists for speaking out against torture.

Background on the Death Penalty in Thailand

4. Thailand has executed one person¹ since the Committee’s most recent Concluding Observations in 2014.² This execution took place on June 18, 2018, and the person executed had been sentenced to death for aggravated murder.³ This execution had been the first in nearly ten years.⁴ Thailand carries out death sentences through lethal injection.⁵ As of December 2023, Thailand’s Department of Corrections reports that 325 people are on death row.⁶ This figure marks a decrease in the number of people on death row since January 2019, but it represents a 44% increase in the number of people on death row since January 2022.⁷ Of the

¹ Amnesty International, *Thailand: Country’s First Execution since 2009 a Deplorable Move* (June 19, 2018), available at <https://www.amnesty.org/en/latest/news/2018/06/thailand-countrys-first-execution-since-2009-a-deplorable-move/>.

² Concluding Observations on the Initial Report of Thailand (June 20, 2014), CAT/C/THA/CO/1.

³ Amnesty International, *Thailand: Country’s First Execution since 2009 a Deplorable Move* (June 19, 2018), available at <https://www.amnesty.org/en/latest/news/2018/06/thailand-countrys-first-execution-since-2009-a-deplorable-move/>.

⁴ Amnesty International, *Thailand: Country’s First Execution since 2009 a Deplorable Move* (June 19, 2018), available at <https://www.amnesty.org/en/latest/news/2018/06/thailand-countrys-first-execution-since-2009-a-deplorable-move/>; Tom Batchelor, *Thailand Considers Introducing Death Penalty for Corruption*, *The Independent* (Jan. 9, 2017), available at <https://www.independent.co.uk/news/world/asia/thailand-death-penalty-corruption-new-law-a7517991.html>.

⁵ Thailand Criminal Code, art. 19, B.E. 2499 (1956), as amended by Section 4 of the Act Amending the Criminal Code (No. 16), B.E. 2546.

⁶ International Federation for Human Rights, *Thailand Annual Prison Report 2024* (March 2024), at 13, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

⁷ International Federation for Human Rights, *Thailand Annual Prison Report 2024* (March 2024), at 13, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

people on death row in Thailand as of December 2023, 199 (61.2%) are under sentence of death for drug-related offenses.⁸ Thailand does not impose the death penalty on juveniles, pregnant people, or people who are “mentally unstable.”⁹

5. Dozens of offenses not considered “the most serious crimes” are eligible for the death penalty. For example, even the section of the Penal Code prohibiting murder does not expressly specify that such murder necessarily be “intentional.”¹⁰ In addition to murder, several crimes resulting in the death of a victim are death-penalty-eligible.¹¹ Even where they do not result in death, certain aggravated forms of terrorism-related offenses,¹² rape,¹³ arson,¹⁴ kidnapping,¹⁵ drug trafficking,¹⁶ drug possession,¹⁷ economic crimes,¹⁸ and treason¹⁹—among other crimes—are eligible for the death penalty.
6. Thailand represents that “Thai agencies have undertaken a step-by-step approach to reforming laws on capital punishment in compliance with human rights principles” reflected in its 2009 National Human Rights Plan.²⁰ Thailand claims to be “working to increase public awareness and understanding of the ongoing debate on capital punishment[,]” but Thailand also recognizes that public sentiment in Thailand is “strongly in favor of the death penalty[.]”²¹ Thailand abstained from the most recent UN General Assembly resolution in 2022 calling for a global moratorium on executions.²²

⁸ International Federation for Human Rights, *Thailand Annual Prison Report 2024* (March 2024), at 14, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

⁹ Common Core Document Forming Part of the Reports of States Parties: Thailand, (Nov. 15, 2021), HRI/CORE/THA/2021, ¶ 100.

¹⁰ Thailand Criminal Code, secs. 288, 289(4), B.E. 2499 (1956), as amended through to Criminal code No. 17, B.E. 2547 (2003).

¹¹ See, e.g., Thailand Criminal Code, sec. 340, B.E. 2499 (1956), as amended through to Criminal Code No. 17, B.E. 2547 (2003) (gang-robbery); Thailand Criminal Code, sec. 339, B.E. 2499 (1956), as amended through to Criminal Code No. 17, B.E. 2547 (2003) (theft).

¹² See, e.g., Thailand Criminal Code, sec. 218, B.E. 2499 (1956), as amended through to Criminal Code No. 17, B.E. 2547 (2003).

¹³ Thailand Criminal Code, secs. 276, 277, 277ter, B.E. 2499 (1956), as amended through to Criminal Code No. 17, B.E. 2547 (2003).

¹⁴ Thailand Criminal Code, secs. 218, 219, B.E. 2499, B.E. 2499 (1956), as amended through to Criminal Code No. 17, B.E. 2547 (2003).

¹⁵ Thailand Criminal Code, secs. 313, 314, B.E. 2499 (1956), as amended through to Criminal Code No. 17, B.E. 2547 (2003).

¹⁶ Thailand Narcotics Act, secs. 7, 15, 65, B.E. 2522 (1979), as amended through to Act No. 5, B.E. 2545 (2002).

¹⁷ Thailand Narcotics Act, sec. 66, B.E. 2522 (1979), as amended through to Act No. 5, B.E. 2545 (2002).

¹⁸ Thailand Criminal Code, sec. 149, B.E. 2499 (1956), as amended through to Criminal Code No. 17, B.E. 2547 (2003).

¹⁹ Thailand Criminal Code, secs. 130, 131, 132, B.E. 2499 (1956), as amended through to Criminal Code No. 17, B.E. 2547 (2003).

²⁰ Common Core Document Forming Part of the Reports of States Parties: Thailand, (Nov. 15, 2021), HRI/CORE/THA/2021, ¶ 101.

²¹ Common Core Document Forming Part of the Reports of States Parties: Thailand, (Nov. 15, 2021), HRI/CORE/THA/2021, ¶ 101.

²² U.N.G.A., 77th Session, 54th Plenary Meeting, p. 19, U.N. Doc. A/77/PV.54, Dec. 15, 2022.

7. People sentenced to death can petition the King of Thailand to request that he commute their sentences.²³ In 2021, the King commuted the death sentences of 64 people.²⁴

Thailand fails to uphold its obligations under the Convention Against Torture

I. Thailand’s exemption for prison officials deemed to be acting in “good faith” results in de facto impunity for torture (List of Issues Prior to Reporting (LOIPR) paras. 3(d), 4).

8. The Committee asked for information on “any efforts under way to repeal domestic legislation that could result in immunity for acts of torture or ill-treatment.”²⁵ The Committee also requested further information regarding progress made to address the Committee’s concerns about de facto impunity for acts of torture.²⁶
9. Thailand’s State Party Report mentions that “[a]ll actions taken by state officials are subject to judicial review. Only permissible actions, satisfying conditions provided explicitly by the laws, can be justified.”²⁷ The report asserts that the “1914 Martial Law Act, the 2005 Emergency Decree and the 2008 Internal Security Act do not have the objectives of reinforcing a climate of impunity or granting officials immunity from prosecution. In practice, there have been many cases where officials acting pursuant to these laws were sued in a torture case and ruled to pay compensation to the injured person.”²⁸ Thailand also mentions that it has punished state officials who commit an act of torture or ill-treatment, such as when “the 8th Regional Appellate Court convicted a prison official for beating a prisoner causing grievous bodily harm. According to its decision no. 499/2552 (2009), the defendant was given a two-year term in prison.”²⁹
10. Despite these efforts, public officials are still not consistently held accountable for acts of torture. During the reporting period, there was still no accountability for the 2004 deaths of 85 people who were shot or died after being arrested subsequent to protests to demand the release of six Malay Muslim men from Tak Bai Police Station in Narathiwat province, one of Thailand’s southern border provinces.³⁰ The then-government established an “independent fact-finding committee” to investigate the incident, and the committee found that the use of live ammunition by the authorities was “inappropriate and inconsistent with internationally

²³ Amnesty International, *Amnesty International Global Report: Death Sentences and Executions 2021* (2022), at 37, available at <https://www.amnesty.org/en/documents/act50/5418/2022/en/>.

²⁴ Amnesty International, *Amnesty International Global Report: Death Sentences and Executions 2021* (2022), at 37, available at <https://www.amnesty.org/en/documents/act50/5418/2022/en/>.

²⁵ Committee Against Torture, *List of issues prior to the second periodic report of Thailand* (June 19, 2018), U.N. Doc. CAT/C/THA/QPR/2, ¶ 3.

²⁶ Committee Against Torture, *List of issues prior to the second periodic report of Thailand* (June 19, 2018), U.N. Doc. CAT/C/THA/QPR/2, ¶ 4.

²⁷ Committee Against Torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018* (Jan. 4, 2021), U.N. Doc. CAT/C/THA/2 ¶ 11.

²⁸ Committee Against Torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018* (Jan. 4, 2021), U.N. Doc. CAT/C/THA/2 ¶ 15.

²⁹ Committee Against Torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018* (Jan. 4, 2021), U.N. Doc. CAT/C/THA/2 ¶ 17(c).

³⁰ Amnesty International, *Thailand: Thai Authorities Must Act Now to Deliver Justice for Victims of the Brutal Protest Dispersal in Tak Bai* (Oct. 24, 2023), at 1, available at <https://amnesty.org/en/documents/asa39/7348/2023/en/>.

recognized standards and practices.”³¹ Ultimately, only one case relating to the killings and injuries was brought to court, and that case ultimately held security forces “blameless as they were only performing their duties.”³² The statute of limitations will expire on 25 October 2024.³³

11. The Prevention and Suppression of Torture and Enforced Disappearance Act took effect in 2023.³⁴ While the law is a step forward, there are shortcomings that need to be addressed to guarantee Thailand’s full compliance with international human rights laws and standards. For example, the International Commission of Jurists (ICJ) reports that the law’s “[d]efinitions of the crimes of torture and enforced disappearance are incomplete or otherwise discordant with international law.”³⁵ There is also a “lack of representation of victims of torture and enforced disappearance in the composition of the established Committee on the Prevention and Suppression of Torture and Enforced Disappearance.”³⁶
12. There are also provisions that seem to facilitate official torture, ill-treatment, and enforced disappearances. ICJ explains that “[i]n southern border provinces, there are currently three special security laws in force: the Martial Law Act B.E. 2457 (1914), the Decree on Public Administration in Emergency Situations B.E. 2548 (2005), and the Internal Security Act B.E. 2551 (2008). The Martial Law and the Emergency Decree provide for enlarged executive powers of administrative detention without adequate judicial supervision. When the authorities exercise these powers, they are not required to bring detainees before a court at any stage of their detention.”³⁷

³¹ Amnesty International, *Thailand: Thai Authorities Must Act Now to Deliver Justice for Victims of the Brutal Protest Dispersal in Tak Bai* (Oct. 24, 2023), at 3, available at <https://amnesty.org/en/documents/asa39/7348/2023/en/>.

³² Amnesty International, *Thailand: Thai Authorities Must Act Now to Deliver Justice for Victims of the Brutal Protest Dispersal in Tak Bai* (Oct. 24, 2023), at 3, available at <https://amnesty.org/en/documents/asa39/7348/2023/en/>.

³³ Amnesty International, *Thailand: Thai Authorities Must Act Now to Deliver Justice for Victims of the Brutal Protest Dispersal in Tak Bai* (Oct. 24, 2023), at 3, available at <https://amnesty.org/en/documents/asa39/7348/2023/en/>.

³⁴ International Commission of Jurists, *Thailand: Law to address torture and enforced disappearance is an important step toward justice but its full enforcement is critical* (2023), <https://www.icj.org/resource/thailand-law-to-address-torture-and-enforced-disappearance-is-an-important-step-toward-justice-but-its-full-enforcement-is-critical/> (last visited Aug. 30, 2024).

³⁵ International Commission of Jurists, *Thailand: Law to address torture and enforced disappearance is an important step toward justice but its full enforcement is critical* (2023), <https://www.icj.org/resource/thailand-law-to-address-torture-and-enforced-disappearance-is-an-important-step-toward-justice-but-its-full-enforcement-is-critical/> (last visited Aug. 30, 2024).

³⁶ International Commission of Jurists, *Thailand: Law to address torture and enforced disappearance is an important step toward justice but its full enforcement is critical* (2023), <https://www.icj.org/resource/thailand-law-to-address-torture-and-enforced-disappearance-is-an-important-step-toward-justice-but-its-full-enforcement-is-critical/> (last visited Aug. 30, 2024).

³⁷ International Commission of Jurists, *Thailand: Law to address torture and enforced disappearance is an important step toward justice but its full enforcement is critical* (2023), <https://www.icj.org/resource/thailand-law-to-address-torture-and-enforced-disappearance-is-an-important-step-toward-justice-but-its-full-enforcement-is-critical/> (last visited Aug. 30, 2024).

II. The criminal legal system fails to provide adequate support and safeguards to women in conflict with the law, particularly women who are survivors of gender-based violence (LOIPR paras. 5(c), 9).

13. The Committee asked for information on any new measures Thailand has taken “to ensure that all detainees enjoy, in law and in practice, all legal safeguards from the outset of their deprivation of liberty.”³⁸ Specifically, the Committee requested information on new measures “to ensure the availability of legal aid.”³⁹
14. In its State Party Report, Thailand points to the Justice Fund established by the Justice Fund Act B.E. 2558 (2015) “to provide legal aid to individuals, including the accused and those who suffer as a result of the trial process or those whose human rights have been infringed upon, regardless of nationality.”⁴⁰ The report also describes how the Justice Fund, “which holds the status of a juristic person by law, covers assistance in terms of bail, retention of lawyers, court fees and other expenses relating to a trial in Thailand.”⁴¹
15. As of 2018, Thailand had the highest proportion of women on death row compared to men on death row in Asia, with 18 percent.⁴² This proportion has since decreased to 8.6% as of December of 2023.⁴³ Thailand has executed three women since 1942 but has not executed a woman since 1999.⁴⁴ A majority of women on death row in Thailand are indigent and illiterate.⁴⁵
16. In Thailand, women are disproportionately sentenced to death for drug-related offenses.⁴⁶ Of the 325 people on death row in December 2023, 199 people were sentenced for drug-related offenses.⁴⁷ 93% of the women on death row were sentenced to death for drug-related offenses, whereas only 58% of men on death row in Thailand were sentenced to death for drug-related

³⁸ Committee Against Torture, *List of issues prior to the second periodic report of Thailand* (June 19, 2018), U.N. Doc. CAT/C/THA/QPR/2, ¶ 5.

³⁹ Committee Against Torture, *List of issues prior to the second periodic report of Thailand* (June 19, 2018), U.N. Doc. CAT/C/THA/QPR/2, ¶ 5(c).

⁴⁰ Committee Against Torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018* (Jan. 4, 2021), U.N. Doc. CAT/C/THA/2 ¶ 26.

⁴¹ Committee Against Torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018* (Jan. 4, 2021), U.N. Doc. CAT/C/THA/2 ¶ 26.

⁴² *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Cornell Center on the Death Penalty Worldwide, Sept. 2018, at 9, <https://deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁴³ International Federation for Human Rights, *Thailand Annual Prison Report 2024* (March 2024), at 13, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

⁴⁴ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 47, n.603 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

⁴⁵ *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Cornell Center on the Death Penalty Worldwide, Sept. 2018, at 18, <https://deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁴⁶ International Federation for Human Rights, *Thailand Annual Prison Report 2024* (March 2024), at 16, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

⁴⁷ International Federation for Human Rights, *Thailand Annual Prison Report 2024* (March 2024), at 14, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

offenses.⁴⁸ A 2021 study showed that the majority of women in Thailand “on death row for drug offenses are low-level offenders without criminal histories and are less likely than men to have a criminal record.”⁴⁹

17. Despite Thailand’s efforts to provide legal aid to people charged with capital crimes, the availability of legal aid remains an issue. A 2021 study by the Cornell Center on the Death Penalty Worldwide found that court-appointed lawyers “are under-resourced, receiving only about 8,000-50,000 baht (about USD \$250-\$1,600) to defend a capital case. Their lack of resources hinders their ability to effectively represent their clients, including investigating and presenting applicable mitigating circumstances.”⁵⁰ According to the Cornell Center, women in Thailand commonly perceive that legal aid providers lack gender sensitivity.⁵¹ Legal aid lawyers in Thailand reportedly are less likely than their private peers to engage in good practices such as arguing in favor of pre-trial release and advising the client privately before she comes into contact with justice officials.⁵²
18. The Committee also requested that Thailand “provide information on measures taken to combat all forms of violence against women, particularly with regard to cases that involve the actions and omissions of State authorities[.]”⁵³
19. Thailand provides in response domestic violence complaint data from the Ministry of Social Development and Human Security, the number of domestic violence complaints the Office of the Attorney General prosecuted, and a discussion of changes to expand the Act on the Promotion of the Development and Protection of the Family Institution.⁵⁴
20. One study showed that 22% of Thai women incarcerated for drug offenses reported that they had experienced domestic violence.⁵⁵ The majority of women committing drug offenses in

⁴⁸ International Federation for Human Rights, *Thailand Annual Prison Report 2024* (March 2024), at 14, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

⁴⁹ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*: A Global Overview of Women Facing the Death Penalty for Drug Offenses”, at 47 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

⁵⁰ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*: A Global Overview of Women Facing the Death Penalty for Drug Offenses”, at 48 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf> (last visited Aug. 30, 2024) (footnotes omitted).

⁵¹ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*: A Global Overview of Women Facing the Death Penalty for Drug Offenses”, at 32 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf> (last visited Aug. 30, 2024).

⁵² Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*: A Global Overview of Women Facing the Death Penalty for Drug Offenses”, at 32 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf> (last visited Aug. 30, 2024).

⁵³ Committee Against Torture, *List of Issues prior to the submission of the second periodic report of Thailand*, (June 19, 2018) U.N. Doc CAT/C/THA/QPR/2, ¶ 9.

⁵⁴ Committee against torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018*, (Dec. 21, 2021), U.N. Doc. CAT/C/THA/2, ¶¶ 36–38.

⁵⁵ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*: A Global Overview of Women Facing the Death Penalty for Drug Offenses”, at 25 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

Thailand do so through the pathway of “economic familial provisioning.”⁵⁶ One study showed a common pattern toward committing drug offenses to which Thai women are particularly susceptible: poor educational opportunities and employment prospects and expectation to support parents and dependents.⁵⁷ Many women in such circumstances live in financially precarious circumstances, and they come to transport drugs at the suggestion of friends or acquaintances who are aware of those circumstances.⁵⁸ Many women see a job transporting drugs “as a solution to the pressing problem of how to support their families.”⁵⁹ Women incarcerated for trafficking drugs have “reported that they were manipulated into trafficking drugs by their romantic partners.”⁶⁰

21. The Thai legal system creates barriers to sentencing authorities considering the multitude of gender-related factors that may be relevant to determining a person’s level of culpability and an appropriate penalty.⁶¹ Thai judges may consider only “the mitigating factors enumerated in confidential mandatory-sentencing guidelines, which do not include mitigating factors such as poverty, caregiving responsibilities, or a history of gender-based violence.”⁶² Those confidential mandatory-sentencing guidelines, called the *yee-tok*, are unique to each court and

⁵⁶ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 21 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

⁵⁷ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 21 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

⁵⁸ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 21 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

⁵⁹ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 21 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

⁶⁰ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 25 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

⁶¹ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 48 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf> (last visited Aug. 30, 2024).

⁶² Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 48 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf> (last visited Aug. 30, 2024) (footnote omitted).

accessible only by judges.⁶³ Appellate courts “strictly enforce the prohibition against [considering] non-enumerated mitigating factors.”⁶⁴

22. Moreover, the criminal legal system strips people charged with capital drug-related offenses of the presumption of innocence. To avoid the death penalty for the capital crime of producing or distributing category one drugs, defendants have been required in practice to rebut a presumption “that defendants in possession of more than a statutory amount of category one drugs intended to distribute them” by proving “beyond a reasonable doubt that they did not intend to distribute the drugs.”⁶⁵

III. Safeguards against torture after arrest are inadequate (LOIPR para. 6).

23. The Committee requested data on the prevalence of the practice, authorized under orders Nos. 3/2558 (2015) and 13/2559 (2016) of the National Council for Peace and Order (the “NCPO” and such orders, the “NCPO Orders”), “by which military officers are permitted to detain civilians . . . in unofficial places of detention and other locations, including military facilities, on suspicion of having committed a wide range of offences.”⁶⁶ The Committee also asked whether Thailand has taken measures to ensure that civilians are detained only at official places of detention and to detail “any measures adopted to provide fundamental legal safeguards against torture, from the outset of their deprivation of liberty,” to persons detained pursuant to the NCPO Orders.⁶⁷
24. Responding in its State Party Report, Thailand states that the power to detain civilians under the NCPO Orders is temporary and the result of political unrest in the country.⁶⁸ Thailand asserts that officials must adhere to strict conditions when detaining civilians, including that the detention must be carried out in an official location which is not a police station, a detention center, or a prison.⁶⁹ Thailand also stated that measures are facilitated to “ensure that the rights of the detainees are respected,” including regular visits by a family member.⁷⁰

⁶³ Pascal Tanguay, *Thailand: The overcriminalization of meth, a failed moral crusade*, World Prison Brief, June 17, 2021, available at <https://www.prisonstudies.org/news/thailand-overcriminalization-meth-failed-moral-crusade> (last visited Sept. 29, 2022).

⁶⁴ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 48 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf> (last visited Aug. 30, 2024).

⁶⁵ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 47 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

⁶⁶ Committee Against Torture, *List of Issues prior to the submission of the second periodic report of Thailand*, (June 19, 2018) U.N. Doc CAT/C/THA/QPR/2, ¶ 6.

⁶⁷ Committee Against Torture, *List of Issues prior to the submission of the second periodic report of Thailand*, (June 19, 2018) U.N. Doc CAT/C/THA/QPR/2, ¶ 6.

⁶⁸ Committee against torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018*, (Dec. 21, 2021), U.N. Doc. CAT/C/THA/2, ¶ 28.

⁶⁹ Committee against torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018*, (Dec. 21, 2021), U.N. Doc. CAT/C/THA/2, ¶ 28.

⁷⁰ Committee against torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018*, (Dec. 21, 2021), U.N. Doc. CAT/C/THA/2, ¶ 29.

25. Torture has long been a problem in Thailand. During the five years of NCPO military rule after the 2014 coup, “many people taken into incommunicado military custody alleged that they were tortured or otherwise ill-treated” while soldiers detained and interrogated them.⁷¹ Human Rights Watch has called for Thailand to investigate the alleged torture of Bilal Mohammed, a suspect in a deadly bomb attack in Bangkok’s commercial district in 2015.⁷² Mohammed “has denied charges of murder or involvement in the attack, retracting an earlier confession that his lawyer said was a result of torture.”⁷³ The International Federation for Human Rights (FIDH) reports that Mohammed has “been detained inside the 11th Army Circle military base in Bangkok for over eight years.”⁷⁴ In 2023, FIDH called on the Thai Government to take immediate steps to ensure Mohammed is afforded due process and fair trial rights, including the right to humane treatment and protection against torture and ill-treatment while in detention.⁷⁵
26. The Act on the Prevention and Suppression of Torture and Enforced Disappearances is facially inadequate to address torture and implementation has fallen short.⁷⁶ Amnesty International has expressed concern that the law does not “include provisions which would make statements obtained by torture or during enforced disappearance inadmissible as evidence in legal proceedings.”⁷⁷ Moreover, the ICJ has stated that this legislation has fallen short in its implementation: As of November 2023, nine months after the adoption of the Act, civil society organizations have reported 57 complaints pertaining to 27 separate instances of torture, 24 allegations of ill-treatment, and 6 of enforced disappearances.⁷⁸ Thailand has adopted a Convention regulation governing the use of audio and video recordings to minimize the use of torture or ill-treatment during arrests or whilst in custody.⁷⁹ Nonetheless, civil society

⁷¹ Human Rights Watch, *World Report 2024: Thailand*, <https://www.hrw.org/world-report/2024/country-chapters/thailand>.

⁷² Human Rights Watch, *Thailand: Investigate Alleged Torture of Bombing Suspect* (May 19, 2016), <https://www.hrw.org/news/2016/05/20/thailand-investigate-alleged-torture-bombing-suspect>.

⁷³ The Guardian, *Bangkok bombing suspect was tortured into confessing, says lawyer*, <https://www.theguardian.com/world/2016/feb/15/bangkok-bombing-suspect-adem-karadag-tortured-confessing-lawyer>.

⁷⁴ International Federation for Human Rights, *Thailand: UN body petitioned over human rights violations against Uyghur bombing suspects*, <https://www.fidh.org/en/region/asia/thailand/thailand-un-body-petitioned-over-human-rights-violations-against>.

⁷⁵ International Federation for Human Rights, *Thailand: UN body petitioned over human rights violations against Uyghur bombing suspects*, <https://www.fidh.org/en/region/asia/thailand/thailand-un-body-petitioned-over-human-rights-violations-against>.

⁷⁶ Amnesty International, *Thailand: Law to address torture and enforced disappearance is an important step toward justice but its full enforcement is critical* (February 22, 2024), 1 available online at <https://www.amnesty.org/en/documents/asa39/6469/2023/en/>.

⁷⁷ Amnesty International, *The State of the World’s Human Rights* (Peter Benenson House, 2024), 369 available online at <https://www.amnesty.org/en/documents/pol10/7200/2024/en/>.

⁷⁸ International Commission of Jurists, *Thailand: One year on, authorities have fallen short in implementing the landmark Anti-torture and Enforced Disappearance Act*, ICJ (February 22, 2024) <https://www.icj.org/thailand-one-year-on-authorities-have-fallen-short-in-implementing-the-landmark-anti-torture-and-enforced-disappearance-act/> (last visited 27 August 2024).

⁷⁹ International Commission of Jurists, *Thailand: One year on, authorities have fallen short in implementing the landmark Anti-torture and Enforced Disappearance Act*, ICJ (February 22, 2024) <https://www.icj.org/thailand-one-year-on-authorities-have-fallen-short-in-implementing-the-landmark-anti-torture-and-enforced-disappearance-act/> (last visited 27 August 2024).

organizations have reported law enforcement officers conducting arrests without any recordings and pressing individuals for their consent to delete recordings.⁸⁰

27. There have been reports of police abuse and extortion of incarcerated persons, generally with impunity. Few complaints alleging police abuse have resulted in punishment of alleged offenders, and there have been numerous examples of investigations into alleged security force abuses lasting years without resolution.⁸¹ Representatives of nongovernmental organizations and legal entities have “reported police and military officers sometimes tortured and beat suspects to obtain confessions, and newspapers reported numerous cases of citizens accusing police and other security officers of brutality.”⁸²

IV. National and international monitoring organizations have inadequate access to places of detention where people are under sentence of death (LOIPR paras. 8, 22).

28. The Committee requested information regarding measures taken to ensure that that National Human Rights Commission “is empowered to access all places of detention[.]”⁸³ The Committee also requested data on the Commission and national and international monitoring organizations’ visits to places of detention.⁸⁴ Specifically, the Committee asked whether these organizations have access to all places of detention without prior notice and whether Thailand has taken measures “to establish an independent and systematic monitoring system at the national level for all detention facilities.”⁸⁵
29. Thailand states that the 2017 Organic Act authorizes the Commission “to enter into any public dwelling or other premises including in places of detention to monitor or collect evidence concerning cases.”⁸⁶ Thailand also states that the Department of Corrections allows individuals, organizations, and diplomatic and consular staff to visit and contact incarcerated people, that the Commission and the Ombudsman report “no significant impediment that would hinder their access to locations used for detention,” and that the Commission and Ombudsman need not inform the Department of Corrections of their visits in advance.⁸⁷

⁸⁰ International Commission of Jurists, *Thailand: One year on, authorities have fallen short in implementing the landmark Anti-torture and Enforced Disappearance Act*, ICJ (February 22, 2024) <https://www.icj.org/thailand-one-year-on-authorities-have-fallen-short-in-implementing-the-landmark-anti-torture-and-enforced-disappearance-act/> (last visited 27 August 2024).

⁸¹ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Thailand*, 4 available online at <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/thailand/>.

⁸² U.S. Department of State, *2023 Country Reports on Human Rights Practices: Thailand*, 4 available online at <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/thailand/>.

⁸³ Committee Against Torture, *List of Issues prior to the submission of the second periodic report of Thailand*, (June 19, 2018) U.N. Doc CAT/C/THA/QPR/2, ¶ 8.

⁸⁴ Committee Against Torture, *List of Issues prior to the submission of the second periodic report of Thailand*, (June 19, 2018) U.N. Doc CAT/C/THA/QPR/2, ¶ 22.

⁸⁵ Committee Against Torture, *List of Issues prior to the submission of the second periodic report of Thailand*, (June 19, 2018) U.N. Doc CAT/C/THA/QPR/2, ¶¶ 8, 22.

⁸⁶ Committee against torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018*, (Dec. 21, 2021), U.N. Doc. CAT/C/THA/2, ¶ 34.

⁸⁷ Committee against torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018*, (Dec. 21, 2021), U.N. Doc. CAT/C/THA/2, ¶ 78.

30. Civil society organizations report that the Department of Corrections has granted the Commission access “to prisons to assess conditions and interview inmates.”⁸⁸ In 2023, the Department of Corrections granted access to the Commission, the House of Representatives’ Committee on Legal Affairs, Justice, and Human Rights, representatives from the governments of Japan, Qatar, and the United Kingdom, and representatives of the Thailand Institute of Justice and the Thai Oil Public Company.⁸⁹
31. Yet civil society organizations and independent human rights groups report that their access to prisons “to monitor detention conditions continued to be arbitrarily restricted.”⁹⁰ For example, the Department of Corrections denied FIDH and the Union for Civil Liberty access to prisons “across the country to assess conditions and conduct interviews with inmates for the research” of their annual prison report.⁹¹ In denying access, the Department of Corrections cited the “high number of inmates” and “security measures in prisons and correctional institutions that require great precaution.”⁹²
32. Likewise, authorities denied Amnesty International access to the Bangkok Remand Prison and the Central Women’s Correctional Institution “to assess the detention conditions and treatment of political prisoners in these facilities.”⁹³ The Department of Corrections rejected the request in November of 2023, citing COVID-19 concerns.⁹⁴

V. Detention conditions do not respect international human rights standards, including for women under sentence of death (LOIPR paras. 16–18).

33. The Committee asked Thailand to provide information on its practices relating to issues addressed in the amended Penitentiary Act, including the practice of solitary confinement.⁹⁵ The Committee asked Thailand to describe “measures taken to reduce prison overcrowding” and “measures taken to address concerns about insufficient food and potable water, poor sanitation and deficiencies in access to appropriate health care in places of detention.”⁹⁶ The Committee also asked for information regarding efforts to meet the special needs of women in detention, especially pregnant women with children, “including whether measures have been

⁸⁸ International Federation for Human Rights, *Thailand Annual Prison Report 2024* (March 2024), at 21, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

⁸⁹ International Federation for Human Rights, *Thailand Annual Prison Report 2024* (March 2024), at 21, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

⁹⁰ International Federation for Human Rights, *Thailand Annual Prison Report 2024* (March 2024), at 20, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

⁹¹ International Federation for Human Rights, *Thailand Annual Prison Report 2024* (March 2024), at 20, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

⁹² International Federation for Human Rights, *Thailand Annual Prison Report 2024* (March 2024), at 20, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

⁹³ International Federation for Human Rights, *Thailand Annual Prison Report 2024* (March 2024), at 21, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

⁹⁴ International Federation for Human Rights, *Thailand Annual Prison Report 2024* (March 2024), at 21, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

⁹⁵ Committee Against Torture, *List of Issues prior to the submission of the second periodic report of Thailand*, (June 19, 2018) U.N. Doc CAT/C/THA/QPR/2, ¶ 16.

⁹⁶ Committee Against Torture, *List of Issues prior to the submission of the second periodic report of Thailand*, (June 19, 2018) U.N. Doc CAT/C/THA/QPR/2, ¶ 17.

taken to address concerns regarding invasive body searches performed on women in prison.”⁹⁷ Further, the Committee asked for statistical data on the number of pretrial detainees and incarcerated persons and the occupancy rate of all places of detention.⁹⁸

34. Thailand states that the 2017 Corrections Act, which repeals the 1943 Penitentiary Act, is part of its effort to amend its law to be more in line with the Mandela Rules and the Bangkok Rules.⁹⁹ Thailand says that “the Ministry of Justice is currently in the process of drafting a Ministerial Regulation stipulating that solitary confinement shall not be imposed for more than 15 consecutive days, along with several other draft Ministerial Regulations for the implementation of the Corrections Act.”¹⁰⁰ Thailand points to measures taken to reduce the overcrowding of prisons¹⁰¹ and to care for the specific needs of pregnant women.¹⁰² The Report also describes efforts to improve the body search method in accordance with international standards.¹⁰³
35. FIDH reports that in 2023, “Thai authorities made little progress in the implementation of new measures aimed at reducing chronic prison overcrowding, including those promoting the use of detention in alternative locations outside prisons for pre-trial detainees and certain categories” of incarcerated persons.¹⁰⁴ “In Thailand, pre-trial detainees made up between around 18% and 20% of the total prison population in 2023 and have traditionally been a significant cause of prison overcrowding.”¹⁰⁵ Pre-trial detainees are held together with incarcerated persons in 136 prisons and correctional facilities across the country.¹⁰⁶ The Department of Corrections has claimed this practice was due to insufficient space within each prison, which made the physical separation of pretrial detainees from the general prison population impossible.¹⁰⁷ As of November 2023, “authorities held more than 275,000 persons

⁹⁷ Committee Against Torture, *List of Issues prior to the submission of the second periodic report of Thailand*, (June 19, 2018) U.N. Doc CAT/C/THA/QPR/2, ¶ 18.

⁹⁸ Committee Against Torture, *List of Issues prior to the submission of the second periodic report of Thailand*, (June 19, 2018) U.N. Doc CAT/C/THA/QPR/2, ¶ 17.

⁹⁹ Committee against torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018*, (Dec. 21, 2021), U.N. Doc. CAT/C/THA/2, ¶ 59.

¹⁰⁰ Committee against torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018*, (Dec. 21, 2021), U.N. Doc. CAT/C/THA/2, ¶ 61.

¹⁰¹ Committee against torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018*, (Dec. 21, 2021), U.N. Doc. CAT/C/THA/2, ¶ 68.

¹⁰² Committee against torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018*, (Dec. 21, 2021), U.N. Doc. CAT/C/THA/2, ¶ 73.

¹⁰³ Committee against torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018*, (Dec. 21, 2021), U.N. Doc. CAT/C/THA/2, ¶ 72.

¹⁰⁴ International Federation for Human Rights (FIDH), *Thailand Annual Prison Report 2024*, 21 <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

¹⁰⁵ International Federation for Human Rights (FIDH), *Thailand Annual Prison Report 2024*, 21 <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

¹⁰⁶ International Federation for Human Rights (FIDH), *Thailand Annual Prison Report 2024*, 21–22 <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

¹⁰⁷ International Federation for Human Rights (FIDH), *Thailand Annual Prison Report 2024*, 22 <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

in prisons and detention facilities with a maximum design capacity of approximately 220,000.”¹⁰⁸

36. According to FIDH, “[t]he use of punishment and other disciplinary sanctions that amount to ill-treatment [has been] consistently reported by interviewed former[ly] incarcerated males.”¹⁰⁹ In addition to beatings, formerly incarcerated men have reported “the use of ankle shackles, solitary confinement, disciplinary segregation, and military-style training for violations of prison rules”¹¹⁰ Formerly incarcerated persons “at Pattani Central Prison stated that most of the new inmates were forced to wear ankle shackles 24 hours a day for two months as a disciplinary measure, leading to injuries in some cases.”¹¹¹ At Nakhon Si Thammarat Prison, a formerly incarcerated person “reported that solitary confinement normally lasted two to three months, in a cell of around 2m x 4m (8m²).”¹¹²
37. FIDH further reports that “[o]vercrowding and restrictions on access to water and basic hygiene supplies continue[] to negatively affect the sanitation situation in many prisons.”¹¹³ In more overcrowded facilities, such as Lamphun Provincial Prison, Nakhon Si Thammarat Central Prison, Ratchaburi Central Prison, and the Bangkok Remand Prison, interviewed formerly incarcerated persons “reported difficulties in accessing sufficient showers and in-dormitory toilets.”¹¹⁴
38. Formerly incarcerated persons have “reported that prisons failed to provide inmates with food that was of good quality and nutritionally adequate.”¹¹⁵ “In addition, while drinking water was readily available in prisons, many interviewed former [incarcerated persons] reported the lack of quality control for the monitoring of prison water.”¹¹⁶
39. Formerly incarcerated persons reported that laborious “work provided little rehabilitative value and opportunities to develop the vocational skills or experience that were necessary to prepare them for successful reintegration into society upon release.”¹¹⁷ “A former incarcerated person at Thonburi Remand Prison commented on the stringent production targets: ‘They called it

¹⁰⁸ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Thailand*, 5 available online at <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/thailand/>.

¹⁰⁹ FIDH, *Thailand Annual Prison Report 2024*, at 31, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

¹¹⁰ FIDH, *Thailand Annual Prison Report 2024*, at 32, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

¹¹¹ FIDH, *Thailand Annual Prison Report 2024*, at 32, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

¹¹² FIDH, *Thailand Annual Prison Report 2024*, at 32, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

¹¹³ FIDH, *Thailand Annual Prison Report 2024*, at 34, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

¹¹⁴ FIDH, *Thailand Annual Prison Report 2024*, at 34, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

¹¹⁵ FIDH, *Thailand Annual Prison Report 2024*, at 37, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

¹¹⁶ FIDH, *Thailand Annual Prison Report 2024*, at 37, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

¹¹⁷ FIDH, *Thailand Annual Prison Report 2024*, at 41, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

vocational training, but it's not really training. It's a kind of torture of prisoners to make them work that hard.”¹¹⁸

Women in detention

40. There is little evidence to suggest that Thailand has squarely addressed the problem of overcrowding in women's detention facilities or otherwise improved detention conditions for women, including women sentenced to death. During the day, women under sentence of death in Thailand live with the general prison population; they “sleep in separate dormitories only if the prison has the capacity to divide sleeping areas.”¹¹⁹ Prisons are “severely overcrowded”; in some prisons there is so little space that women “take turns sleeping on the bare floor,”¹²⁰ and “often develop back and leg pain because they must sleep without moving onto their sides.”¹²¹ “Women spend around 14 hours per day in extremely crowded cells.”¹²²
41. Women detained in Thai prisons report degrading experiences such as being required to sit on the floor when talking to prison guards and when prison guards walk by.¹²³ They report that failing to address guards and officers as “sir” and “madam” could result in punishment.¹²⁴
42. According to the Cornell Center, “[p]risons also lack women's health services. Women report that they need to purchase their own sanitary napkins, although they have very limited opportunities to earn money in prison.”¹²⁵ FIDH interviewed women who reported that sanitary napkins became even more scarce during the COVID-19 pandemic, when family visits were prohibited, prompting some women to wear the same sanitary pad for several days in a row

¹¹⁸ FIDH, *Thailand Annual Prison Report 2024*, at 42, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

¹¹⁹ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 48 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

¹²⁰ *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Cornell Center on the Death Penalty Worldwide, Sept. 2018, at 21, <https://deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

¹²¹ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 48-49 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>; FIDH, *Thailand: Annual Prison Report 2022* (Mar. 2022), at 29, available at <https://www.fidh.org/IMG/pdf/thailande791angweb.pdf>.

¹²² *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Cornell Center on the Death Penalty Worldwide, Sept. 2018, at 21, <https://deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

¹²³ FIDH, *Thailand: Annual Prison Report 2022* (Mar. 2022), at 31, available at <https://www.fidh.org/IMG/pdf/thailande791angweb.pdf> (last visited Sept. 29, 2022).

¹²⁴ FIDH, *Thailand: Annual Prison Report 2022* (Mar. 2022), at 31, available at <https://www.fidh.org/IMG/pdf/thailande791angweb.pdf> (last visited Sept. 29, 2022).

¹²⁵ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 49 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf> (footnotes omitted).

and to wash and reuse the same sanitary pad many times.¹²⁶ According to the Cornell Center, “[i]n Thailand . . . , inmates have reportedly given birth alone in prisons.”¹²⁷

43. FIDH recently conducted interviews with formerly incarcerated persons to document detention conditions.¹²⁸ A woman formerly detained in Chiang Mai Women’s Correctional Institution reported that the showers use a pipe system, by which the water runs in three brief rounds, sometimes as brief as 15 seconds.¹²⁹ The water is collected in a concrete tank below the showers and is then recycled “to be used over and over.”¹³⁰ One formerly incarcerated person there said that when she was admitted, she received half a tube of toothpaste in a plastic bag, three sanitary pads, half a face towel, and a tiny bag of detergent.¹³¹ A woman formerly detained at the Central Women’s Correctional Institution said that the institution had cockroaches everywhere as well as “rats as big as kittens trying to dig around for some food. It was unbearably filthy.”¹³²
44. FIDH observes that “[a]ccess to timely and quality physical and mental healthcare services in line with international minimum standards” remains among the biggest challenges for incarcerated persons.¹³³ The most common complaint by the majority of the interviewed former incarcerated persons “was the inability to have direct and timely access to healthcare services at the prison medical facilities, which provide primary care and basic medicines to sick” incarcerated persons.¹³⁴ “Thai Lawyers for Human Rights, a legal aid organization, stated one of their clients, jailed in June [2023], struggled to access her bipolar disorder medication in prison and was moved to a hospital only in August [2023] after her weight dropped by 10 percent following a 14-day hunger strike.”¹³⁵
45. One woman told FIDH that “she did not receive any help after informing a prison guard about her depression and suicidal thoughts.”¹³⁶ Another woman reported cruel treatment of women

¹²⁶ FIDH, *Thailand: Annual Prison Report 2022* (Mar. 2022), at 39, available at <https://www.fidh.org/IMG/pdf/thailande791angweb.pdf>.

¹²⁷ *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Cornell Center on the Death Penalty Worldwide, Sept. 2018, at 5, <https://deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

¹²⁸ FIDH, *Thailand: Annual Prison Report 2022* (Mar. 2022), available at <https://www.fidh.org/IMG/pdf/thailande791angweb.pdf>.

¹²⁹ FIDH, *Thailand: Annual Prison Report 2022* (Mar. 2022), at 33, available at <https://www.fidh.org/IMG/pdf/thailande791angweb.pdf>.

¹³⁰ FIDH, *Thailand: Annual Prison Report 2022* (Mar. 2022), at 33, available at <https://www.fidh.org/IMG/pdf/thailande791angweb.pdf>.

¹³¹ FIDH, *Thailand: Annual Prison Report 2022* (Mar. 2022), at 33, available at <https://www.fidh.org/IMG/pdf/thailande791angweb.pdf>.

¹³² FIDH, *Thailand: Annual Prison Report 2022* (Mar. 2022), at 34, available at <https://www.fidh.org/IMG/pdf/thailande791angweb.pdf>.

¹³³ FIDH, *Thailand Annual Prison Report 2024*, at 39, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

¹³⁴ FIDH, *Thailand Annual Prison Report 2024*, at 39, available at <https://www.fidh.org/IMG/pdf/thailandprison823a.pdf>.

¹³⁵ U.S. Department of State, 2023 *Country Reports on Human Rights Practices: Thailand*, 5 available online at <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/thailand/>.

¹³⁶ FIDH, *Thailand: Annual Prison Report 2022* (Mar. 2022), at 37–38, available at <https://www.fidh.org/IMG/pdf/thailande791angweb.pdf>.

with psycho-social disabilities; when they would display neuro-divergent behavior, guards would tie them up and even subject them to electric shocks.¹³⁷

46. Further, “the general female prison population in Thailand has access to work programs, but [women on] death row . . . do not.”¹³⁸ Women on death row are thus “more susceptible to depression as they have less to take part in and form fewer meaningful relationships with other female inmates.”¹³⁹ It is also unclear whether women on death row are excluded from drug rehabilitation programs available to women in the general prison population.¹⁴⁰
47. Another challenge women face is the distance between their detention facility and their home.¹⁴¹ As the Cornell Center observes, “[s]ince Thailand has few women’s prisons, women are often detained far from home, hindering their family’s ability to visit.”¹⁴² Prison authorities typically remove children born in prison from their mothers at or before the age of one.¹⁴³
48. FIDH reports that prison guards and officials sometimes threaten female detainees who complain about detention conditions.¹⁴⁴

VI. Prohibitions against consideration of evidence obtained through torture are inadequate (LOIPR para. 27).

49. The Committee asked for information on any new measures taken “to amend article 226 (1) of the Criminal Procedure Code, which is inconsistent with the principle of the inadmissibility of evidence obtained through torture.”¹⁴⁵ Specifically, the Committee wanted to know “whether

¹³⁷ FIDH, *Thailand: Annual Prison Report 2022* (Mar. 2022), at 38, available at <https://www.fidh.org/IMG/pdf/thailande791angweb.pdf>.

¹³⁸ *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Cornell Center on the Death Penalty Worldwide, Sept. 2018, at 5, <https://deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

¹³⁹ *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Cornell Center on the Death Penalty Worldwide, Sept. 2018, at 23, <https://deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

¹⁴⁰ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 31 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf> (last visited Aug. 30, 2024).

¹⁴¹ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 49 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

¹⁴² Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 49 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

¹⁴³ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, at 49 (Sept. 2021), <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

¹⁴⁴ FIDH, *Thailand: Annual Prison Report 2022* (Mar. 2022), at 43, available at <https://www.fidh.org/IMG/pdf/thailande791angweb.pdf>.

¹⁴⁵ Committee Against Torture, *List of Issues prior to the submission of the second periodic report of Thailand*, (June 19, 2018) U.N. Doc CAT/C/THA/QPR/2, ¶ 27.

judges have refused to admit evidence in any cases during the reporting period on the grounds that it was obtained through torture or ill-treatment.”¹⁴⁶

50. Thailand responds that “it is a clear and publicly stated policy of the Royal Thai Government not to seek to adduce material obtained by torture in legal proceedings.”¹⁴⁷ Thailand states that “the inadmissibility of evidence obtained by torture is confirmed by the Criminal Procedure Code’s Section 226 in conjunction with Section 135.”¹⁴⁸ Further, Thailand references “the Supreme Court’s Decision No. 1029/2548 (2005) in paragraph 19 for an example of the court’s decision on inadmissibility of evidence obtained through torture or ill-treatment.”¹⁴⁹
51. The ICJ reports that the Prevention and Suppression of Torture and Enforced Disappearances Act “criminalizes torture, other ill-treatment, and enforced disappearance, and establishes legal and procedural safeguards against such practices. Its provisions also aim to ensure that victims and others can report torture and other ill-treatment and enforced disappearances without fear.”¹⁵⁰
52. While the law is a step forward, authorities must address several shortcomings. The ICJ notes that “[t]he current Bill continues to contain provisions that are inconsistent with international law and standards.”¹⁵¹ For example, the definitions of torture and enforced disappearance are “incomplete or otherwise discordant with international law,” the bill leaves the door open for amnesties, and in the drafting process lawmakers removed “the provision on the inadmissibility of statements and other information obtained by torture, ill-treatment and enforced disappearances as evidence in legal proceedings.”¹⁵²

VII. People reporting allegations of torture face threats and reprisals (LOIPR para. 28).

53. The Committee requested “comment on reports of threats and reprisals against persons working to bring to light cases of alleged torture or ill-treatment and enforced

¹⁴⁶ Committee Against Torture, *List of Issues prior to the submission of the second periodic report of Thailand*, (June 19, 2018) U.N. Doc CAT/C/THA/QPR/2, ¶ 27.

¹⁴⁷ Committee against torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018*, (Dec. 21, 2021), U.N. Doc. CAT/C/THA/2, ¶ 93.

¹⁴⁸ Committee against torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018*, (Dec. 21, 2021), U.N. Doc. CAT/C/THA/2, ¶ 93.

¹⁴⁹ Committee against torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018*, (Dec. 21, 2021), U.N. Doc. CAT/C/THA/2, ¶ 93.

¹⁵⁰ International Commission of Jurists, *Thailand: Law to address torture and enforced disappearance is an important step toward justice but its full enforcement is critical* (2023), <https://www.icj.org/resource/thailand-law-to-address-torture-and-enforced-disappearance-is-an-important-step-toward-justice-but-its-full-enforcement-is-critical/> (last visited Aug. 30, 2024).

¹⁵¹ International Commission of Jurists, *Thailand: Law to address torture and enforced disappearance is an important step toward justice but its full enforcement is critical* (2023), <https://www.icj.org/resource/thailand-law-to-address-torture-and-enforced-disappearance-is-an-important-step-toward-justice-but-its-full-enforcement-is-critical/> (last visited Aug. 30, 2024).

¹⁵² International Commission of Jurists, *Thailand: Law to address torture and enforced disappearance is an important step toward justice but its full enforcement is critical* (2023), <https://www.icj.org/resource/thailand-law-to-address-torture-and-enforced-disappearance-is-an-important-step-toward-justice-but-its-full-enforcement-is-critical/> (last visited Aug. 30, 2024).

disappearances[.]” steps taken to prosecute such acts, and measures taken to facilitate the work of those bringing to light alleged violations of the Convention.¹⁵³

54. Thailand responds that it has several reform plans and strategies in place to promote and protect the right of human rights defenders and the media, that the 2017 Constitution and several laws protect the interest of human rights defenders, and that the Rights and Liberties Protection Department has several initiatives in place to monitor the situation of human rights defenders and protect them from harm.¹⁵⁴
55. Thailand still prosecutes human rights defenders and protesters under lèse-majesté, sedition, criminal defamation, the Computer Crimes Act, Head of NCPO Order No. 3/2558, the Referendum Act, and the Public Assembly Act.¹⁵⁵ These laws make it impossible for human rights defenders to securely report alleged torture.¹⁵⁶
56. Lèse-majesté allows the government of Thailand to prosecute anyone who “defames, insults, or threatens the King, the Queen, the Heir-apparent or the Regent,” with a penalty of up to 15 years imprisonment.¹⁵⁷ Thailand continues to enforce its lèse-majesté law, and has used it to threaten, arrest, and prosecute political protesters.¹⁵⁸ Likewise, Thailand prosecutes cases of “Sedition” under Article 116 of its Penal Code to target political activists and people objecting to Thailand’s military rule.¹⁵⁹ In January 2024, a Thai court sentenced a clothing vendor and political activist to 50 years’ imprisonment under the lèse-majesté law for “social media posts deemed damaging to the king.”¹⁶⁰
57. Thailand’s criminal defamation laws, Articles 326 to 333 of the Penal Code, have also been used against human rights defenders.¹⁶¹ Criminal defamation may be punished by of up to one year of imprisonment and a fine, “unless the means of communication is a ‘document, drawing,

¹⁵³ Committee Against Torture, *List of issues prior to the second periodic report of Thailand* (June 19, 2018), U.N. Doc. CAT/C/THA/QPR/2, ¶ 28.

¹⁵⁴ Committee Against Torture, *Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018* (Jan. 4, 2021), U.N. Doc. CAT/C/THA/2 ¶¶ 88–89.

¹⁵⁵ Amnesty International, “*They Cannot Keep Us Quiet*”: *The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁵⁶ Amnesty International, “*They Cannot Keep Us Quiet*”: *The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁵⁷ Amnesty International, “*They Cannot Keep Us Quiet*”: *The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 25, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁵⁸ Amnesty International, “*They Cannot Keep Us Quiet*”: *The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 25, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁵⁹ Amnesty International, “*They Cannot Keep Us Quiet*”: *The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 24, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁶⁰ Helen Regan, *Thailand Sentences Man to Record 50 Years in Prison for Insulting the Monarchy*, CNN (Jan. 18, 2024, 11:27 PM), <https://www.cnn.com/2024/01/19/asia/thailand-man-sentenced-50-years-lese-majeste-record-intl-hnk/index.html#:~:text=Sentences%20for%20those%20convicted%20under,March%20and%20April%20that%20ye ar.>

¹⁶¹ Amnesty International, “*They Cannot Keep Us Quiet*”: *The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 25, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

painting, cinematography film, picture or letters[.]” in which case the penalty increases to two years’ imprisonment.¹⁶²

58. Since 2007, Thailand has retained the Computer Crimes Act, which “gives authorities a wide degree of latitude to monitor and suppress online content and to prosecute individuals for various broadly-defined offenses.”¹⁶³
59. Head of NCPO Order No. 3/2558, which has been in place since April 2015, provides for a penalty of “up to six months imprisonment and a fine for anyone participating in ‘political gatherings of five or more persons.’”¹⁶⁴ According to Amnesty International, under this Order, military officials may “arbitrarily detain individuals in unofficial places of detention for up to seven days, without many of the safeguards provided by Thai law.”¹⁶⁵
60. Prior to the constitutional referendum in 2016, Thailand enacted the Referendum Act, which “provides for up to ten years imprisonment and a fine for ‘anyone who disseminates text, pictures or sounds that are inconsistent with the truth or in a violent, aggressive, rude, inciting or threatening manner aimed at preventing a voter from casting a ballot or vote in any direction or not to vote[.]’”¹⁶⁶ Thailand investigated, arrested, and charged many people who protested against the then-draft constitution.¹⁶⁷
61. Finally, in 2015, Thailand adopted the Public Assembly Act, which “implements mandatory procedures for those wishing to organize public gatherings and sets out criminal penalties for those who[] fail to comply.”¹⁶⁸ Otherwise at risk of criminal penalties ranging from a 10,000 baht fine to “up to 10 years imprisonment for acts of destruction or violence,” organizers must “seek permission from authorities 24 hours before holding a public assembly and . . . provide details about the date, time, location, and purpose of the planned action.”¹⁶⁹

¹⁶² Amnesty International, *“They Cannot Keep Us Quiet”: The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 25, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁶³ Amnesty International, *“They Cannot Keep Us Quiet”: The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 25, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁶⁴ Amnesty International, *“They Cannot Keep Us Quiet”: The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 25, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁶⁵ Amnesty International, *“They Cannot Keep Us Quiet”: The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 25, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁶⁶ Amnesty International, *“They Cannot Keep Us Quiet”: The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 25, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁶⁷ Amnesty International, *“They Cannot Keep Us Quiet”: The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 26, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁶⁸ Amnesty International, *“They Cannot Keep Us Quiet”: The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 26, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁶⁹ Amnesty International, *“They Cannot Keep Us Quiet”: The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 26, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

62. Amnesty International confirms that Thailand has prosecuted human rights defenders under these laws.¹⁷⁰ For example, in 2017, the Royal Thai Army’s Internal Security Operations Command Region 4 filed a criminal complaint against S.H., P.K., and A.H., the editors of a report “alleging widespread torture by Thai military personnel in Thailand’s conflict-affected southern provinces.”¹⁷¹ These three people were “summoned to the police station and informed that they were being investigated for potential violations” of the criminal defamation law and the Computer Crimes Act.¹⁷² If the editors had been prosecuted and convicted, they would have faced up to seven years’ imprisonment and a fine.¹⁷³ P.K. had been the subject of a criminal investigation and complaint “in 2014 after writing an open letter concerning torture allegations.”¹⁷⁴ A.H. reports “that she has faced surveillance and harassment by the military since the publication of the report.”¹⁷⁵
63. Similarly, in 2017, a Thai military officer initiated the prosecution of N.K., who had campaigned for military officers’ accountability for acts of torture.¹⁷⁶ In September of 2017, “police investigators recommended that May be prosecuted for violations of Article 328 of the Penal Code, criminalizing defamation, and the Computer Crimes Act.”¹⁷⁷

VIII. Suggested recommendations for the Government of Thailand

64. The coauthors suggests the following recommendations for the Government of Thailand:
- Abolish the death penalty and replace it with penalties that are fair, proportionate, and consistent with international human rights standards.
 - In the meantime:

¹⁷⁰ Amnesty International, “*They Cannot Keep Us Quiet*”: *The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁷¹ Amnesty International, “*They Cannot Keep Us Quiet*”: *The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 16, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁷² Amnesty International, “*They Cannot Keep Us Quiet*”: *The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 16, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁷³ Amnesty International, “*They Cannot Keep Us Quiet*”: *The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 17, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁷⁴ Amnesty International, “*They Cannot Keep Us Quiet*”: *The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 17, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁷⁵ Amnesty International, “*They Cannot Keep Us Quiet*”: *The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 17, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁷⁶ Amnesty International, “*They Cannot Keep Us Quiet*”: *The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 17, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

¹⁷⁷ Amnesty International, “*They Cannot Keep Us Quiet*”: *The Criminalization of Activists, Human Rights Defenders, and Others in Thailand*, (2017), at 17, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3955142017ENGLISH.pdf>.

- Adopt a moratorium on executions, with a view to the abolition of the death penalty.
- Amend the penal code to limit the death penalty to the “most serious crimes,” defined as offenses entailing an intentional killing committed by the person charged with the death-eligible offense.
- Instruct judges not to sentence any person to death for a drug-related offense.
- Commute all existing death sentences for drug-related offenses to penalties that are fair, proportionate, and in compliance with international human rights standards.
- Ensure that any person charged with a drug-related offense is entitled to the presumption of innocence, and mandate that the prosecution must prove beyond a reasonable doubt any elements of the crime relating to production or intent to distribute.
- On at least an annual basis, publish data on people under sentence of death and executed over the reporting period, disaggregated by sex/gender, nationality, race or ethnicity, crime of conviction, relationship to any codefendants or victims, occupation at the time of arrest, existence and age of any dependent children, location, and status of any appeals or requests for pardon.
- Provide sufficient financial resources and training to court-appointed lawyers defending persons accused of capital crimes.
- Take steps to provide heightened fair trial and due process safeguards in capital cases involving women defendants, including by providing them with access to effective legal representation with experience in capital cases and with training on gender-sensitive defense strategies.
- In collaboration with civil society organizations specializing in gender-based violence, provide training to all defense counsel who take on capital cases regarding gender-specific mitigation and how to raise discrimination against clients on the basis of their gender, when appropriate.
- Codify gender-specific defenses and mitigation in capital cases, encompassing women’s experiences of trauma, poverty, and gender-based violence, including defenses applicable to victims of prolonged gender-based violence, regardless of imminence of harm at the time she acts in self-defense.
- Ensure that all judicial officers responsible for sentencing in capital cases receive comprehensive training on gender-based discrimination, gender-based violence, and tactics of coercive control that may lead to women committing death-eligible offenses.

- Ensure women under sentence of death have access to dependent children through visitation and provide financial subsidies to facilitate transportation for visits by dependent children.
- Ensure that all vocational, educational, rehabilitation, and treatment programming in detention is available to all detained persons, regardless of the nature of their sentence.
- Amend sentencing guidelines to require courts to consider poverty, caregiving responsibilities, and a history of gender-based violence in determining an appropriate sentence and to allow courts to consider non-enumerated mitigating factors when determining sentences.
- On an annual basis, publish data on the prevalence of the practice by which military officers are permitted to detain civilians in unofficial places of detention and other locations, including military facilities.
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) without reservations and accede to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Provide for increased representation of victims of torture and enforced disappearance in the composition of the Committee on the Prevention and Suppression of Torture and Enforced Disappearance.
- Thoroughly and impartially investigate allegations of torture by security forces in detention facilities.
- Issue a directive to all judicial officers and prosecutors prohibiting the introduction of evidence obtained under duress, torture, or cruel, inhuman, or degrading treatment, except when introduced to prove the crime of torture, and issue guidelines on the steps judges must take when a defendant alleges torture or ill-treatment, including investigating all credible allegations and taking immediate steps to protect individuals alleging torture or ill-treatment from retaliation.
- Ensure that detention conditions comply with the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).
- Ensure that all prison authorities adopt gender-sensitive policies in relation to women's detention, based on the Bangkok Rules and the Nelson Mandela Rules, ensuring women's safety and security pre-trial, during admission to any detention facility and while incarcerated.
- Collaborate with civil society organizations to ensure that staff in all prisons receive adequate training on international standards, notably the Nelson Mandela Rules and the Bangkok Rules.

- Ensure that women in detention receive the necessary items to meet their specific hygiene needs, particularly an adequate provision of sanitary pads that are of decent quality and free of charge.
- Direct authorities in all places where women are detained to cease engaging in degrading treatment of women in detention, including requiring them to sit when addressing prison staff.
- Ensure that civil society organizations and independent human rights groups enjoy the same access to places of detention, including places of detention holding people under sentence of death, as the NHRC and diplomatic and consular staff for purposes of monitoring compliance with the Convention, and establish a mechanism for recourse when such access is denied.
- Increase efforts to address and resolve the issue of overcrowding in prisons by adopting and implementing sustainable and effective measures to reduce the prison population.
- Implement the Ministerial Regulation stipulating that solitary confinement shall not be imposed for more than 15 consecutive days, as required under the Nelson Mandela Rules.
- Refrain from placing prisoners in solitary confinement, except as a last resort and then only for as short a time as possible and subject to independent review, consistent with the Nelson Mandela Rules.
- Conduct thorough, impartial, and independent investigations into all allegations of torture and ill-treatment, ensure that perpetrators are punished in accordance with existing laws, rules, and regulations, and that victims receive adequate redress and compensation.
- Improve the overall quality and nutritional value of food served to incarcerated persons.
- Ensure the provision of adequate specialized medical services, including dental, psychological, and psychiatric care, for incarcerated persons.
- Ensure that prison work programs aim to equip incarcerated persons with skills, experience, and self-esteem necessary for their successful reintegration into society upon release.
- Amend the laws concerning lèse-majesté, sedition, criminal defamation, the Computer Crimes Act, the Referendum Act, and the Public Assembly Act to ensure that they cannot be used to target human rights defenders on political grounds.
- Withdraw Head of NCPO Order No. 3/2558.