

article2

of the International Covenant on Civil and Political Rights

Vol. 15, No. 2 - 3

June - September 2016

ISSN 1811 7023

SPECIAL ISSUE



Torture in Thailand's deep south

TORTURE: Asian and Global Perspectives
April 2016 issue OUT NOW

TORTURE

ASIAN AND GLOBAL PERSPECTIVES

APRIL 2016 VOLUME 05 NUMBER 01

KASHMIR CONFLICT

DEPRAVITY

AGAINST WOMEN AND GIRLS



BURMA
NEW POLITICAL ORDER

**WHAT IS PSYCHOLOGICAL
TORTURE?**

**WHOSE
RULE OF LAW?**

Available for free download at
www.torturemag.org

Contents

SPECIAL ISSUE: Torture in Thailand's deep south

Introduction: Torture in Thailand's deep south <i>Editorial board, article 2</i>	2
Torture and ill treatment in Thailand's deep south <i>Cross Cultural Foundation, Duayjai, and Patani Human Rights Organisation</i>	6
Annex: The death in custody of Abduldayib Dolah	40
Rehabilitation of survivors of violence <i>David W. Engstrom, Professor of Social Work, San Diego State University</i>	45
Human rights defenders under attack in Thailand, again <i>Thailand Desk, Asian Human Rights Commission</i>	48
Documenting torture in Thailand: A conversation with Pornpen Khongkachonkiet <i>Comics for Human Rights</i>	61
Thailand: Survivors of torture denied justice by military dictatorship <i>Asian Legal Resource Centre</i>	70
Appendix: The force of the gun camouflaged as law— Two years of rule by the NCPO <i>Thai Lawyers for Human Rights</i>	72

Introduction: Torture in Thailand's deep south

Editorial board, article 2

This special issue of *article 2* features an abridged and edited version of a landmark report on the use of torture by the military, paramilitary and other state security forces in the far south of Thailand. The report, which was prepared by three locally based groups of human rights defenders—the Cross Cultural Foundation (CrCF), Duayjai, and the Patani Human Rights Organisation (HAP)—features excerpts from 54 cases of torture documented in Thailand's southernmost provinces, on its border with Malaysia, during 2014-15. The cases were all documented in accordance with the Istanbul Protocol for working with survivors of torture, and with the support of the United Nations Voluntary Fund for Victims of Torture.

We have waited over a decade for a detailed report on torture used by state security personnel in the southernmost provinces of Thailand, where since the early 2000s the army, police and paramilitary units—most commonly, rangers—have aggressively confronted a resurgent secessionist movement.

From early on it was obvious to anyone familiar with the work of the security forces in Thailand that detainees accused of being involved in the antigovernment political programme, whether as active insurgents or supporters, would be tortured. However, working on such cases, or even just talking about them, posed heavy risks. In March 2004 the prominent human rights lawyer Somchai Neelaphaijit announced publicly that five men in the south whom he expected to represent had been hung from doors and beaten by the police to confess to involvement in a raid on a government armory. The following day, policemen abducted him from his car on a busy street in Bangkok. He was never seen again.

Somchai's abduction and disappearance had a chilling effect on others who might have been emboldened to act. And not only he but also many other advocates for public causes were in this period being subjected to threats that all too often were realized in the form of killings (see the special report, 'Rule of law versus rule of lords in Thailand', *article 2*, vol. 4, no. 2, April 2005, for details).

It was the period immediately after the so-called “war on drugs”, during which, in a period of a few months over 2000 people are estimated to have been gunned down in their houses, bars and restaurants, cars and on the streets of cities and towns around the country (see ‘Extrajudicial killings of alleged drug dealers in Thailand’, *article 2*, vol. 2, no. 3, June 2003). Extrajudicial killing was commonplace, and human rights defenders documenting cases of torture and abuse in police stations far away from areas of the country disturbed by civil unrest who were pursued by the alleged perpetrators or others acting on their behalf had good reason to be worried for their safety. Torture survivors who dared to complain were exposed to serious threats and lacked protection (see the special report ‘Protecting witnesses or perverting justice in Thailand’, *article 2*, vol. 5, no. 3). It was not an easy time to defend human rights in Thailand, least of all, in the heavily militarized and brutalized south.

“CrCF joined with its local partners Duayjai and HAP in 2014 and 2015 to collect and document the 54 cases contained in this report”

It is still not easy. Today times have changed, but certainly not for the better. Thailand is ruled by a military junta, its second in the years since the southern violence resurged in the early 2000s. Yet despite the ebb and flow of authoritarian politics in Bangkok, and the persistent militarization of the south, human rights groups have formed and collaborated to document and recount the use of torture by state security forces in the centre, as well as in the south.

In Bangkok, Thai Lawyers for Human Rights (TLHR) has played a vanguard role in documenting alleged torture in the political cases it has been handling in court, and in newly reestablished military tribunals to try civilians: a method of political rather than judicial prosecution that constitutes an unprecedented development in contemporary Thailand and speaks to how profoundly regressive the current dictatorship in the country is, even in comparison to its earlier iterations. On the first anniversary of the coup, in June 2015, TLHR reported that it alone was handling 18 cases where the accused reported having been severely tortured during interrogation. For further commentary on the situation in Thailand post-coup, we invite readers to turn to the analysis of the Asian Legal Resource Centre that concludes this special issue (‘Thailand: Survivors of torture denied justice by military dictatorship’), and to the appended report by TLHR (‘The force of the gun camouflaged as law: Two years of rule by the NCPO’).

In the country’s south, Bangkok-based CrCF joined with its local partners Duayjai and HAP in 2014 and 2015 to collect and document the 54 cases contained in this report. Consistent with the Istanbul Protocol, and in view of the conditions in the south of Thailand, all identifying details, including the names of the survivors, have been omitted from the publication. This necessity led the military shortly after the report was first released in January 2016 to declare it a fabrication: a characteristic action that it has in common with other militaries and officials accused of systematic atrocities in recent times, including some in the

United States following the release of the Senate Select Committee report on the use of torture by the CIA in December 2014.

“The editorial board of *article 2* has decided to reproduce the report of torture in the southernmost parts of Thailand, because its contents can and must be known more widely”

However, the army in Thailand did not stop at issuing blanket denials of the crimes that its personnel have committed, but soon began pursuing the human rights defenders who documented and issued this report. In June 2016 it contacted one of the three to inform her that it would be initiating criminal proceedings against them for defamation and violation of the draconian Computer Crimes Act, under which it is possible to be prosecuted for literally any activity online in Thailand that state security personnel deem to constitute a threat to the national interests—read as the interests of the armed forces. She and the two co-editors of the report have since received summons to appear and answer to the charges. An outline of the actions taken against these three human rights defenders can be found in this issue of *article 2* (‘Human rights defenders under attack in Thailand, again’, by the Thailand Desk of the Asian Human Rights Commission).

The editorial board of *article 2* has decided to reproduce the report of torture in the southernmost parts of Thailand documented by these human rights defenders and their colleagues both because its contents can and must be known more widely, and as an act of solidarity with them in the face of the insistence of the army in Thailand that it be permitted to continue to torture and kill people in Pattani, Yala and Narathiwat with impunity and without scrutiny, as it has done for well over a decade now. In doing so it delivers a message to those responsible for the prosecution of the report’s authors and editors, that they ought not be so stupid as to think that a ham-fisted attempt at criminalizing human rights documentation will succeed in preventing the work of these groups, or the further dissemination of their tremendously important findings.

We take this opportunity to congratulate our colleagues in Thailand for the work undertaken to prepare this report and work closely with the survivors of torture in the far south. This issue of *article 2* is dedicated to them. Although its contents make for grim reading, they are contents that must be read, and acted upon, if the scourge of torture in Thailand’s south, and indeed, in the country as a whole, is to be ended.



Base 802809AI (C00152) 5-02

Torture and ill treatment in Thailand's Deep South

*Cross Cultural Foundation,
Duayjai & Patani Human Rights Organization*

1. Introduction

Race and religion are the roots of the conflict in the southern border provinces of Thailand and have inspired a history of conflict since the Kingdom of Siam was at war with the Kingdom of Patani (also spelled Pattani) in ancient times. This war resulted in the Kingdom of Siam annexing Pattani along with Muslim Malay areas in the southern region, and creating a colony during the Rattanakosin era (circa 1782) under the reign of King Rama I. The areas were later annexed as part of the Kingdom of Siam in 1902, during the reign of King Rama V. Other land in the southern Malacca peninsula belonged to the British Empire. Liberation fighter groups have been demanding an independent state, or the right to autonomy to establish a “state of Patani”, all the way through to the present day. Waves of resistance movements opposing the domination of Thai governance and the repression caused by the Thai state have resulted in a protracted social conflict with sporadic periods



of violence. These conditions have been further exacerbated by the fact that the administrative machinery of the Thai state lacks knowledge and understanding of the religious complexities of the region.

The latest wave of violence commenced with the gun robbery at the Piling Military Camp in Narathiwat province on 4 January 2004 and has been ongoing to the present day. Twelve years later the violence in these areas shows no signs of decline. According to the Deep South Watch, violent incidents that have occurred between 2004 to 2014 were logged at 14,688 counts, resulting in up to 6286 deaths: an of average 571 deaths per year. A total number of 11,366 people have been injured: 1033 persons per year.

The Thai government has been trying to curb the violence by implementing various measures, including the enactment and implementation of special legislation which gives authorities to search, prohibit, raid, arrest, confine or detain a person without a court warrant. The Martial Law Act 1914, Emergency Decree 2005, Emergency Decree on Public Administration in a State of Emergency 2005, and the Serious State of Emergency Order in the southern border provinces all allow authorities to detain persons suspected of being involved in an incident relating to national security in a military compound and /or in special facilities for a period not exceeding seven days. Additionally, authorities can detain a person by virtue of the Emergency Decree for a period not exceeding seven days, with an option to extend the detention for a term of not more than seven days, totaling a period not more than 30 days altogether, without seeking permission of the court. During this time, a detainee does not have to be charged with any criminal offense in order to validate their detention.

Although the law establishes a principle that a person arrested and detained under special laws in Thailand is only a suspect, and not a person who has been accused of committing a crime under criminal procedure, the rights of these individuals remain limited in comparison to accused persons in criminal cases. For example, a detainee is unable to meet relatives or a lawyer; is unable to seek bail or a provisional release; and is able to be visited sometimes but subject to stringent time limitations. In some cases, a detainee's detention facility is concealed, or officials subsequently relocate the individual to a different facility to prevent further access to relatives. The concerned authorities



Cover image of the original report in Thai

“There is no law, domestic or international, that grants authorities the power to inflict torture”

can question anyone arrested or detained by virtue of a special law. This process is geared towards extracting information from the suspects, particularly whether they were involved in the insurgency or not. The process is also an informal means for gathering evidence beyond the scope of the Criminal Procedure Code.

The Emergency Decree section 11(1), authorizes a competent authority to arrest and restrain a person suspected of having taken part in the provocation of the state of emergency, being a principal, inciter or aider therein or thereof, or concealing certain information in connection therewith; prescribed that the arrest or restraint must be made only for the purpose of preventing the person in question from committing or partaking in any action likely to worsen the situation or extracting his cooperation on the abatement of the serious situation.

Although the laws grant special powers to the authorities to restrict certain freedoms and liberties of people in special circumstances, there is no law, domestic or international, that grants authorities the power to inflict torture or cruel, inhumane or degrading treatment and punishment (hereinafter referred to as “torture”). Moreover, an act of torture constitutes a punishable crime for which an official should be held accountable.

The Cross Cultural Foundation (CrCF) and organizations in its network have been receiving many complaints from detainees and arrestees that they were tortured and/or subjected to cruel, inhuman and degrading treatment and punishment. Hence, the CrCF, Duayjai Group, and the Patani Human Rights Organization (HAP), with the support of the United Nations Voluntary Fund for Victims of Torture, have collected data on torture cases, assisted victims of torture to alleviate pain from both physical and mental damage, and are working to provide rehabilitation and support. Additionally, these organizations have provided legal assistance to those victims to access the justice system and receive remedies from the state. The groups also make recommendations to the authorities and government agencies for effective implementation of laws, policies, and practices to prevent and eradicate torture and cruel, inhuman or degrading treatment and punishment, which is still pervasive in the southern border provinces.

2. Definition

2.1. “Torture”

Article 1(1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984 (hereafter “CAT”), which Thailand ratified on 1 November 2007, defines “torture” as

“Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as: (1) Obtaining from him or a third person information or a confession; (2) Punishing him for an act he or a third person has committed or is suspected of having committed; (3) Or intimidating or coercing him or a third person; or (4) Any reason based on discrimination of any kind when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

“Thailand has not stipulated ‘cruel, inhuman or degrading treatment or punishment’ as being criminal offences”

Under the CAT, article 4(1), each State Party, including Thailand shall ensure that all acts of torture are offences under its criminal law. Nevertheless, Thailand has not enacted the necessary laws. In fact, Thailand had ratified the Convention with a declaration and reservation on the definition of “torture” such that an act of torture shall accordingly be punishable in conformity with the pre-existing Thai Penal Code. It will eventually withdraw the reservation by revising or amending its domestic law to include all acts of torture as offenses in the law, such that domestic law is in consonance with the CAT. The Law Reform Council, the Department of Rights and Liberties Protection, and the Ministry of Justice are said to be working on the revision.

2.2. “Cruel, inhuman or degrading treatment or punishment”

The CAT did not stipulate a definition of “cruel, inhuman or degrading treatment or punishment” because this form of human rights violation is socially and culturally specific to each country. Thus, outlining a definition would be very restrictive and possibly undermine the goal of prevention of human rights violations. The Convention also did not stipulate that “cruel, inhuman or degrading treatment or punishment” must be criminal offences. Even if some state parties to the Convention do not stipulate acts of cruel, inhuman or degrading treatment or punishment as criminal offenses, under article 16 of the Convention, the State Party is accountable to obligations under the Convention when a violation occurs.

Thailand has not stipulated “cruel, inhuman or degrading treatment or punishment” as being criminal offences, but when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity, the person(s) responsible for such acts may still have both criminal and administrative or disciplinary liabilities, as the case may be.

3. Data collection on the situation in the southern border provinces

The CrCF, Duai Jai Group, and the Patani Human Rights Organization have received complaints from relatives, victims

“Acts of torture
in the southern
border provinces are
systematic”

of torture and related parties through fact-finding fieldwork and data gathering. They used the “Assessment of Torture Impacts for Physicians Analysis” tool designed by Physicians for Human Rights (PHR) and the American Bar Association Rule of Law Initiative (ABAROLI), which is based on the Istanbul Protocol to frame questions and document impacts of torture. The Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) is designed to investigate and document torture, cruel, inhuman or degrading treatment or punishment cases effectively. It was written by a collaboration of forensic scientists, physicians, psychiatrists, human rights special rapporteurs and legal experts globally to establish standards with which to document and collect data and evidences from torture cases, to offer guidelines for integrative victim assistance, and to present evidence from physical and mental injuries to courts in a systematic manner.

3.1. Data set

Based on preliminary information from initial data collection conducted in 2014-2015 and a preliminary examination of victims of torture and cruel, inhuman or degrading treatment (hereinafter referred to as “torture victims”), there were 54 cases of complaints received from victims of torture. Of these 54 cases documented, 15 persons were tortured while being held in custody of security officers during 2015, 17 persons during 2014, and the remaining 22 during or prior to 2013.

All victims of torture were ethnic Malay, Muslim men. The majority was between 29 to 38 years old (28 persons). The second largest group of victims was between 19 to 28 years old (21 persons). The remaining five persons were aged 39 to 48.

The victims mainly lived in the Pattani Province, totaling 31 persons, with 13 persons living in Narathiwat and 10 in Yala.

3.2. Character of torture

Acts of torture in the southern border provinces are systematic. They are widespread, intended and regular. Torture is aimed at obtaining information or a confession from victims by state authorities, composed both of the police and the military. In spite of complaints, grievances and campaigns against torture by victims, relatives, and local and international organizations, the state has not taken any significant action to prevent and address torture. Additionally, no punitive action has been taken against the officers involved.

3.2.1. Torture during arrest

During an arrest, physical assaults occur. Authorities have claimed that traces of injury or the use of force are the result of

skirmishes or because a suspect has resisted an arrest. However, records indicate that even after persons had already submitted themselves to officials, they were subjected to physical assaults, threats of violence, and mock executions.

The following are excerpts from interviews that have been conducted with victims of torture during arrest. All identifying details have been removed. Individual interviewees are indicated with a code number consisting of a letter for the group responsible for interview (D, Duayjai; H, HAP), interview number, and year. We begin with a former 30-year-old detainee who recalled what happened to him in 2006:

“At about 2am two army officials in green uniforms, two police officials and some defense volunteers and five plain-clothed officials came. A Muslim police official gave a salaam [customary greeting] and asked whether I was there. My father said I was there and they called me out, and handcuffed me behind my back. They accused me of being a Yala bombing suspect. They took me to a minivan with seven officials. They called me ‘bastard’ and threatened me to confess. I replied that I had not known about the bomb and on that day I was not in Yala. When I denied the allegations, an official said, ‘So you want to see real thing?’ The officials covered my head with a black plastic bag for two to three minutes, until I suffocated. They said if I did not confess, I’d die. Then two officials used a three-foot-long stick, covered with a piece of cloth, to hit me on his back and the front over ten times. I ran out of breath from the pain inside and could not bear it anymore so I raised my hands and asked them to stop. The official said, ‘How can I stop? You must confess, then I will stop’, and that if I did not confess, they would continue hitting and they threatened to kill my family members. I was so worried and very scared of what would happen to the family.” (DJ.02.2014)

Another 30-year-old detainee recounted what happened to him when taken into custody on 30 November 2013,

“The Selatan Ranger [paramilitary] Unit brought 13 truckloads of about 50-60 men to surround an area and arrest six young people. Then they went and searched every house in the neighborhood. They came to search the place where I was living. At that time I was cooking dinner with five friends and the landlord. Officers arrested a friend, who wasn’t a local, and me. They used a white cable plastic tie to restrain my wrists behind my back. Four to five officials stomped on my back and ribs many times and then dragged me outside the house (before this I had already surrendered by raising both hands). When I was outside the house, they told me to stretch my legs and officials stood on my legs and calves while I was lying face down. I was beaten on the head several times. Afterwards, the officials found a gun in the

“The officials covered my head with a black plastic bag for two to three minutes, until I suffocated. They said if I did not confess, I’d die”

DJ.02.2014

“Approximately 13 officials kicked me and asked where the guns were. I said I did not know and there was no gun. The officials threatened to shoot me if I did not give out information on the guns”
DJ.04.2014

house. It belonged to a friend. The officials questioned me and smacked my head, and then the officials took me into the house alone. Approximately 13 officials kicked me and asked where the guns were. I said I did not know and there was no gun. The officials threatened to shoot me if I did not give out information on the guns. I replied that if I have any guns, shoot me. The officials smacked, hit, and slapped me on my back torso many times until I was so numb and I was drifting in and out of consciousness. Officials took me to a vehicle. I was lying on my side while they surrounded me. Some officials on the top stomped on my head, the other two on the side stepped on my shoulders on both sides. They forced me to confess but I refused, so the official who was stomping on my head did it repeatedly until my head was bleeding. The ones in the front also did the same with combat boots. Later, the officials had not done anything more as I was severely beaten and injured and I would have more injuries [a photo shows the man's wounds after a week]. They had beaten me until I confessed. When I arrived at Wat Sri Sakorn temple, the officials ordered me to confess to the crime and I complied and confessed. Then the officials took me to the Wang Phaya military camp, while I was transported, they also beat me on the chest repeatedly and continuously. They also threatened to harm my family so as to obtain a confession.” (DJ.04.2014)

A 34-year-old said that in 2013,

“My arrest happened approximately at midnight. The Selatan Unit came to my home and workplace in the village. They woke homeowners up and ordered them to walk downstairs. I was separated from other residents. The officials called my name and asked if I was there, I said yes. Then I was handcuffed and escorted back to the car. They asked where the gun was. I said I do not have any guns. The Selatan officials who were wearing combat boots kicked me and then took photos to check if I was wounded. They kicked, questioned and stomped on my wrist then poked the barrel of a gun in my mouth three to four times. I felt extremely pained and exhausted that my body went numb. One of them took his boots off and rubbed a foot on my face once. [A culturally degrading action.] I was on the outside of a car for about two hours. Then, I was taken to a car and my wrists were tied with plastic cables.” (DJ.05.2014)

One 29-year-old interviewee reported that,

“At 10.30pm on 13 February 2014, I was at a teashop in the center of a village. About five minutes later, the military and police forces surrounded the mosque, which was empty. The officials fired some shots at the teashop, so I ran away and they chased after me. When officers caught me, they dragged me on the concrete path into the mosque. Officials prevented

me from wearing my sarong. They pushed me to lay my face down on the ground with my hands bound with a piece of white rope and handcuffs. Then I was beaten, punched, kicked and smashed at the back of the head, shoulders, and torso by the officials. I was later escorted to my house wearing just a shirt. They searched my house and only during the search was I allowed to wear a sarong.” (DJ.07.2014)

A 29-year-old said,

“After prayers and before I was to go to tap rubber on 10 April 2014, I was lying and watching TV in the house. Then a joint three-agency force, all armed, from military, police and administrative officials surrounded my village. Suddenly, the officials grabbed me by force. I fell over in mud in a waterway. My limbs went weak because of fear. Then four officials stomped on my back, neck and head. Then they dragged me up a dirt hill behind my house. All four officials smelled of strong alcohol and appeared obviously intoxicated. They started kicking my body. An elder relative living next door to me tried to tell them not to hurt me but was chased back into the house. They dragged me deeper into the back of the house and the same four officials kicked my torso and head many times. The authorities then pushed me down and stomped me vigorously several times, meanwhile they used their hands to squeeze my throat on and off until I was almost out of breath twice in a row. I was tired and exhausted, obviously, but they still kicked me. The officials used plastic cable straps to tie my arms to the back and pushed me down, then pushed their feet on my torso for a long time. They shoved the muzzle of an M16 rifle into my mouth and banged so hard that the lower teeth were broken. The muzzle was pushed hard that my uvula and throat had an inflammation, so that I could not swallow my saliva because it was very painful.” (H.05.2014)

“The officials used plastic cable straps to tie my arms to the back and pushed me down, then pushed their feet on my torso for a long time”
H.05.2014

3.2.2. Torture while being transported in a vehicle

After an arrest, officials take arrestees to facilities designated for detention or interrogation, or to other places to identify a crime scene. When a detainee is being transported in a vehicle, officials may hurt a suspect by crushing the torso and head or beating with a rifle butt. For instance, a 44-year old told us

“At 6pm on 13 May 2015 military and police officials and three joint operation forces of more than 100 persons surrounded my house. At that time, I was leaving to pray at Makrib prayer time. Officials stopped me from reentering my house, where my wife and two [teenage] children were. There were two other guests. There was a clash between the authorities and the people in the house at that time. One person died and the other was arrested. I was also arrested. While the situation was still unclear, officials dragged my [17-year-old] son out of the house. (While he was in the house) the officers

“They dragged me behind a car, then they kicked my eye and my lips two to three times and my chest seven to eight times”
DJ.15.2014

slapped and kicked his head several times. I saw everything that happened to my son. While I was in a car with another friend we were beaten, kicked in the face, slapped on the head several times. They threatened to kill me. I was hurt and very upset by this harsh treatment.” (H.06.2014)

A 26-year-old interviewee said that on 21 November 2013, “When I was in a vehicle, they hit me with a helmet at the nape of my neck. They put the helmet on my head and knocked on it like they were playing a drum.” (DJ.13.2015)

A 27-year-old informed us that

“At 6am on 19 March 2014 a truckload of 29 officials came to my house. My mother-in-law was opening the door to arrange goods for sale out front. A volunteer defense official asked for names of people in my house, then they took me to an Isuzu pick-up truck, which belonged to an official. I was handcuffed with my wrists to the back. Police officials asked if I knew [a particular] four persons. I said I did not know some of them and there was someone I knew. They searched my house for a period of time but they did not find anything. They dragged me behind a car, then they kicked my eye and my lips two to three times and my chest seven to eight times. When my lips were bleeding, an official said stop. There were other officials watching. I was threatened with guns. At 7am I was taken to a car and was driven around a crowded bazaar. The officials stopped the car to have people there see me. They drove to a location where a ranger was shot, then the police said to me, ‘Run away, if you can escape, you will survive. I will count one to ten.’ I thought why did I have to run? I did not commit a crime. I was silent. The officials were angry with me. One of them pressed a rifle very hard on my hip. I was in pain and the area was swelling. I could not walk. They asked why I did not run way. I said ‘Why should I run? I did not do anything wrong’. An official said, ‘Unfortunately, you did not run, otherwise I would have sent you to see your [dead] father’. I was very indignant and vengeful against the officials but I remained silent.” (DJ.15.2014)

3.2.3. *Torture during interrogation*

Interrogations take a long time. Some persons interviewed said they were interrogated for over 20 days, while others were for three to four days. During an interrogation, a person may be subjected to many forms of torture and cruel, inhumane and degrading treatment or punishment, as in the case of a 29-year-old interviewee, detained on 17 December 2013,

“I was taken to the Frontal Police Command Center. On the first night, plain-clothed officials wearing black outfits and combat boots beat me at 2.30am. Some of them were those

who had arrested me at a dormitory. They were Buddhists and Muslims. They called me for a questioning session and took me to a shooting range in the Frontal Police Commanding Center compound. Ten officials interrogated me while I was squatting on the ground. They asked the same questions as earlier and accused me of lying. They stomped and kicked my mouth. My teeth were broken. They used a rifle butt to crush my eyes. My eyes felt painful, swollen and bruised. My sight was dim. My nose was bleeding. I lost consciousness and I had pain in my eyes, mouth and chest. On the third night, I was partially conscious and was mumbling in my sleep. The officials continued to bring me from my detention room and question me again and again. During the questioning session, I was seated on a chair, while one of the officials kicked my lower legs. It was very painful. The kicking continued until the end of the questioning session. I was questioned everyday in the morning, midday, afternoon and in the evening from 8 to 11pm from 24 December 2013 to 8 January 2014. On 7 January 2014 and 8 January 2014, the officials took me to another interrogation, and one threatened, 'If you don't tell me, I will rape your wife and hurt you. I won't let your family live.' The official further said they had an intention to kill me if I did not give any information. The light was kept on in the detention place at the Frontal Police Command Center during all days and nights." (DJ.06.2014)

“They put a black plastic bag over my head three to four times and poured water on my head until dawn”

DJ.07.2014

Another 29-year-old said

“On 13 February 2014, I was brought to the Ingkayuthaborihan Camp. I was taken to a shipping container. The first night, rangers beat me to obtain a confession. Ten officials slapped my head, kicked my abdomen, punched my back and then blindfolded me. Two rangers pushed a barrel of a gun into my mouth. I was further smacked, slapped and strangled with a piece of electricity cord until I was choking. Then, the officials loosened the cord about five times. They put a black plastic bag over my head three to four times and poured water on my head until dawn. In the morning, the officials took me for a medical examination in the military camp but a doctor did not examine me. The doctor only issued a medical examination certificate, saying I had not been beaten. I was beaten in the same manner for three days at the camp, during the seven days there. They forced me to sign documents, threatened to torch my house and assault my family. I was detained at the Ingkayuthaborihan Camp for 28 days in a freezing cold detention cell with an air conditioner from 11 am to midnight, and then sent to bed without any washing for prayers. The room was very small. I was detained in the cold room and not allowed to pray for five days. Then the officials ordered me to sign documents again, but I refused. Thus, the officials forebode me from seeing my family and relatives. Finally, I signed the documents because I had

been beaten and I was in pain all over my body. The officials threatened to harm my wife and my parents and to torch my house. They also threatened that if I did not confess, they would find a way to put me in jail.” (DJ.07.2014)

“Locations allegedly used for torture extensively included the Reconciliation Promotion Center, Ingkayuthaborihan military camp, Pattani Province, where most incidents occurred, and also the Ranger Special Force Unit 41, Raman District, Yala Province”

3.3. When, where and who?

Suspects are often detained in a local military facility for three to seven days, then transferred to a detention center under the Emergency Decree at Reconciliation Promotion Center, Ingkayuthaborihan Camp in Pattani Province, the Peace Protection Center, the Southern Border Provinces Police Operation Center in Yala Province, the Ranger Special Force Unit 41 in the Raman District in Yala Province for a period not exceeding 30 days before they will either be released, or detained further under the Criminal Procedure Code. Alleged perpetrators of torture during arrest and transfer are from joint operation forces, composed of military officials, police and civilian officials. However, there were fewer complaints of torture during this process in comparison to the interrogation process, which is typically conducted by military officials. Of the 54 cases documented, military officials interrogated 48 and the police at the Peace Protection Center in the Southern Police Operation Center, Yala Province, 13. [Some detainees both police and military interrogated.]

Locations allegedly used for torture extensively included the Reconciliation Promotion Center, Ingkayuthaborihan military camp, Pattani Province, where most incidents occurred, and also the Ranger Special Force Unit 41, Raman District, Yala Province. Other special force units also have been reported as using torture, including Special Force Unit 41, 43, 46, and 47, Wat Chang Hai Temple Special Force Unit, Wat Liab Temple Special Force Unit, in Saiburi District, Pattani Province, and Wat Suthokawas Special Force Unit (Wat Sakkhi) temple in Laharn Sub- district, Saiburi District, Pattani Province, where special force units are located. In these facilities a person can be detained by virtue of the Martial Law up to seven days.

[*Editorial note:* The reference to “Wat” special units indicates they are encamped at the compounds of Buddhist temples, ostensibly for the security of the temples against Islamic militants.]

4. Torture methods

Torture entails inflicting severe pain and under the CAT definition it includes both physical and mental pain. From our data gathering, the following methods have been used to torture.

4.1. Psychological torture methods

4.1.1. Blackmailing

Blackmailing is the easiest method of torture and it is effective when a person is detained for a long period of time. Blackmailing

puts pressure on the person who is being interrogated to give answers, admissions or information that an interrogator wants. Officials usually involve threats to harm loved ones such as a father, mother, wife or a child, such as by telling a detainee, “If you don’t talk, I will take your wife and rape her. Your family will not live” (DJ.06.2014). This interviewee was crying as he related the ordeal because he was in anguish, and fearful of the threats made by the officials. The interviewee feared that he would be killed if he did not give them the information.

4.1.2. Mock execution, threat of killing

Mock execution induces fear. There are many forms of mock execution, including pointing a gun at one’s head or firing a gun near a victim; making a victim hear noises from assaulting someone the victim is closely related to (mock execution of the close relative); and covering a victim’s head with a black piece of plastic and strangling a victim’s neck. These methods make a victim feel close to death or that someone else is dying, which has tremendous mental impact, despite rarely leaving any physical traces behind. Mental suffering after a person had been exposed to a mock execution includes anxiety, depression and stress. Symptoms of anxiety are fear, weeping, loss of ability to control one’s movement and pleading for one’s life. According to one detainee,

“On 30 March 2007 officials brought me from the room [where I was being detained] at nightfall, ordered me to wear a military uniform and escorted me downstairs. When I reached the ground floor, my hands were cuffed at the back. [He mentioned that he was weeping because he was terrified by the actions of the officials.] Then I was blindfolded and taken to a vehicle. An official said that they would take me to see Allah, no one could help me and my life depended on the officials. I did not know the direction I was taken in. Then I was ordered to get off the vehicle, and an official asked if I would like to leave a message for my family (while I was still dizzy). I said I give up and I will comply with anything as long as the officials spare their lives. I felt an official pressing my head against a cement table, then put a gun to my head. Later I heard gunshots and then the officials

“There are many forms of mock execution, including pointing a gun at one’s head or firing a gun near a victim; making a victim hear noises from assaulting someone the victim is closely related to; and covering a victim’s head with a black piece of plastic and strangling a victim’s neck”

Source: Prachatai



laughed. At that time, I could only think about Allah.”
(DJ.03.2014)

“They used
impolite words such
as ‘you bastard, call
Allah to help you’,
until the end of my
seven days”

DJ.13.2015

According to a 26-year-old survivor,

“I heard noises from the next room where officials were interrogating my brother-in-law and younger brother... heard a voice crying, ‘help’ and shouts, sounds of kicking, slapping and punching... I was detained at Ingkayuthaborihan military camp for seven nights. The officials interrogated and attacked me every night for six nights, mostly almost until 4am in the morning. I only had one free night.” (H.14.2014)

4.1.3. *Prolonged interrogation*

Our documentation indicates that interrogation happens in non-specific ways and for varying times. An interrogation session takes at least two hours. Sometimes it happens in the morning and sometimes in the afternoon, depending on whether a victim has a visit from his relatives or not. Then an evening interrogation session begins from around 8pm, until dawn for some victims, such as one 29-year-old who reported that,

“On 17 March 2015, I was interviewed for my personal history, then they questioned me, conducted a physical examination and tested my DNA until midnight. (I could not sleep since the first day I was arrested.) ... During the first seven days I was forced to stand for a long period of time, from 11pm to 7am.” (H.07.2015)

According to a 26-year-old detainee,

“At 2 am on 21November 2013, officials knocked on my door, ordered me to open it, to turn a light on, then come out. They had me lie face down on the ground. On the second day of my detention, officials called me for interrogation at 9am. I was beaten, hit and smacked until noon. I had lunch and prayed. Then at 1pm I was called for another interrogation until 5 pm. I was ordered to spread my arms until they burned. Then I ate and prayed. On the third and fourth day I was not beaten very much. I was threatened that I would be attacked if I did not talk. They used impolite words such as ‘you bastard, call Allah to help you’, until the end of my seven days.” (DJ.13.2015)

Mental torture is capable of damaging the nervous system and one’s personality. Other methods found in interrogation are not mental torture, but with prolonged application of these methods, even more severe harm than mental torture can occur. Thus, those special methods can turn a threat into an act of cruel and inhumane treatment. They include the following.

4.1.4. Sleep deprivation

Sleep disruption and deprivation is a form of torture because it attacks the deep biological functions at the core of a person's mental and physical health. Despite being less violent in the literal sense, prolonged sleep deprivation is capable of producing very severe effects. The body can naturally adjust its sleep cycle with some flexibility. Therefore, people can go 24 or more hours without sleep in the right circumstances, without any harm. The body can adjust the next sleep to revitalization so the next time they can sleep normally. However, if a person is deprived of sleep for longer than 24 hours, several mental and physical problems begin to develop. The first signs of sleep deprivation are unpleasant feelings, fatigue, irritability, and concentration problems. Then a person will have trouble reading and speaking clearly, poor judgment, lower body temperature, and a significant increase in appetite. If the sleep deprivation continues, the worsening effects include disorientation, visual misperceptions, apathy, severe lethargy, and social withdrawal. In one case documented, a 29-year-old detainee reported,

“If a person is deprived of sleep for longer than 24 hours, several mental and physical problems begin to develop”

“On 17 December 2013, I was arrested by officials at 5pm. I was handcuffed and the officials asked if I had planted or made a bomb. I replied that I did not do it. They said I lied and kicked my knees, so that I fell down on them. They interrogated me in a room for an hour from 5 to 6pm. I regained consciousness at Wang Phaya Ranger Unit 41, Raman District, Yala Province at 8pm. Officials called me out at 9pm for interrogation. Ranger interrogators slapped me violently. It was very painful. I was later transferred from Wang Phaya to the Frontal Police Operation Center, then to TaskForce 32 for a night and then back to the Frontal Police Command Center. On the first night, plain-clothed officials wearing black outfits and combat boots beat me at 2.30am. On the second night, I suffered epilepsy and was taken to Yala, where the hospital gave me two epilepsy medicine tablets and I was taken back to rest at the Frontal Police Command Center. On the third night, I was partially conscious and was mumbling in my sleep. The officials continued to bring me to an interrogation room and question me again and again. During the interrogation session, I was seated on a chair, while one of the officials kicked my lower legs. It was very painful. The kicking continued until the end of the questioning session. I was questioned everyday in the morning, midday, afternoon and in the evening from 8 to 11pm for 21 days. The detention at the Frontal Police Command Center left the light on all day and night.” (DJ.06.2014)

“Every night there
were disturbing
noises all night long.
I heard a sound of
a stick scrapping
against the wall,
dogs howling
in the front of my
room, and the light
was on all night”
DJ.15.2014

“On 7 February 2012 at about 1pm, officials arrived. By 3pm they pointed guns at me. I saw laser pointing dots on my body and chest. The officials received intelligence that I carried a pistol, a .357 rifle and an M16 rifle. At 4pm, they took my father- and mother-in-law, a friend from Malaysia, my wife and my brother-in-law to Special Force Unit 16. All of them were then taken to Tan Toe District Police Station. Officials questioned my father-in-law, sister and brother-in-law. Officials began an interrogation from 3 to 7.30pm. They denied my request to pray and slapped my face with their palms, knocked my head and flicked my ears more than ten times. My body was exhausted and weak. Then the officials said if you confess easily there shall not be a case against you. You will be spared in a witness program. If you do not confess, people in your family will not leave here. They also said, ‘You will surely die,’ if I did not follow their orders. They pushed a barrel of a pistol to my head and slapped me two or three times. From 5.30pm to 3am an official held me at gunpoint to my head. He said, ‘If you confess, I will give you 5000 Baht (USD138). They ordered me to leave for my room with officials escorting me and one of them told me again, ‘You will surely die,’ as he gestured like a gun with his hand in my direction. I lay down and was allowed to rest for five minutes before they escorted me to my wife’s house. I left her house at 5.30am and rested at Special Force Unit 16. They gave me a meal and took me back to Special Force Unit 41. I was interrogated all day during my seven-day detention in the morning, afternoon and middle of the night.” (DJ.09.2014)

Sleep deprivation in the southern border provinces also involves making loud noises at night when victims want to rest. Prolonged detention with noise can have adverse impacts to the body and the mind. Lack of sleep for several days may cause many symptoms, namely, muscle ache, poor eye sight, depression, color blindness, low concentration, lower immunity, dizziness, bags under eyes, fainting, confusion, hallucination, tremor, headache, hernia, agitation, irritability, temper tantrum, memory loss, nausea, mental disorder, slow responses and permanent drowsiness. A 27-year-old interviewee said,

“On 19 March 2014, I was arrested at 6am. They transported me to Special Force Unit 47 at 9am. Interrogation began at 1pm and I slept at 10pm. The second day I was interrogated from 8am to 1pm. I was at the Special Force Unit 47 for six days. Every night there were disturbing noises all night long. I heard a sound of a stick scrapping against the wall, dogs howling in the front of my room, and the light was on all night.” (DJ.15.2014)

4.1.5. Sensory deprivation

Sensory deprivation (Sendep) is the deliberate reduction or removal of stimuli from one or more of the senses. Simple devices such as blindfolds can cut off sight. Short-term sensory deprivation can be relaxing and conducive to meditation; however, extended and forced sensory deprivation can result in extreme anxiety, hallucinations, bizarre thoughts, and depression. Common methods include the use of a plastic bag to cover the head, a scarf to blindfold a person while being transported to other places or a hard slap of the palm to one or both ears, can result in either temporary or permanent hearing loss. For example, according to one 26-year-old interviewee,

“They turned a fan on and then they covered my face with a shirt and poured weird tasting water into my mouth”

DJ.11.2015

“On 27 February 2015, military officials kicked my ribs, punched my face, kicked my chest and seated me on a chair... They also turned on a fan to make it cooler. They took off my shirt and covered my head with a plastic bag until I passed out. When I regained my consciousness at about 2pm, the officials ordered me to stand under the sun without wearing shoes. I was told to lift my arms and stand on one leg. The officials twisted my arms. It was painful. I stood for two to three hours. Then interrogation officials took me back for a session. They attacked me, kicked my torso, slapped my face and blindfolded me with a scarf. About four to five officials who appeared to be intoxicated brought a bottle of water in front of me, seated me on a chair, handcuffed my wrists behind my back and covered me to my knees with two sacks of ice. They turned a fan on and then they covered my face with a shirt and poured weird tasting water into my mouth. I did not know what kind of water it was.” (DJ.11.2015)

4.2 Physical torture methods

Physical torture methods either leave or do not leave a visible trace. Most common forms of torture are as follows.

4.2.1. Beatings and physical violence

Among the 54 victims, most had been beaten and subjected to physical violence by hands, feet in combat boots, gun butts and timber wrapped in cloth. The majority of victims suffered physical pain and met a physician in a hospital in a military camp but the causes of injuries or physical traces on victims' bodies had not been recorded. For instance, a 27-year-old interviewee described the ordeals he suffered as follows:

“On 22 December 2012, while I was in a vehicle with officials, they attacked me physically by slapping me, punching the abdomen and kicking the torso. I was exhausted and weak. The officials took me to a dormitory inside the Special Force Unit 47, which was confined and rectangular. A moment later, officials called me for an interrogation. There were

“They strangled me until I was suffocating. They demanded that I confess to the matter and then continued to beat and interrogate me until after 4am”

H.07.2014

about ten officials in the interrogation room. Two officials conducted the interrogation and the rest attacked me by kicking, slapping and punching my face and torso. I was out of breath from the attack. The interrogation went on until 8.30pm, when they left me alone in the interrogation room until midnight. Another group of about five to seven officials came and asked about the same matter and attacked me by kicking, slapping and punching my face and torso. This time they strangled me until I was suffocating. They demanded that I confess to the matter and then continued to beat and interrogate me until after 4am. Then they released me to the same place I was earlier. The next day at 9am the officials brought me for another interrogation over the same matter until noon. Then, at 4.30pm, the officials also brought me to another interrogation. They kicked, slapped, and punched both ears many times. I was very dizzy and had irregular vertigo, then I fell over.” (H.07.2014)

4.2.2. *Oxygen deprivation (see also Drowning, dunking and waterboarding)*

Strangulation and suffocation are other methods of physical torture recorded during that data collection that deny oxygen to the detainee, as in the account of a 26-year-old survivor:

“On 19 August 2015, many rangers questioned and attacked me. A ranger asked me (something) then I was attacked before I could answer him. Then the next one asked the next question, but I had not answered and the other rangers kicked my torso, punched my face, kneed my abdomen, strangled me and slapped my face. They did the same for three consecutive days. At night, they attacked me by kicking the torso, punching the face, crushing the chest and my body while I was lying on the floor. They used a cloth-wrapped log to hit my chest, and strangled my neck. I did not know how many times they did it. I felt I could not tolerate it anymore.” (DJ.11.2015)

Plastic garbage bags are used also to suffocate the head of a detainee and deny oxygen. Mental injury from torture of the central nervous control system reduces the process of mental control in various forms. Oxygen deprivation is one method used to disrupt control over one’s mental capacity, so that a victim will follow orders, become unaware of and violate his ethics, spiritual values, principles and wishes. According to a 29-year-old former detainee,

“On 17 March 2015... I was ordered to take my shirt off and stayed in an air-conditioned room, then the officials dumped cold water over me, slapped my face four to five times. I spent seven days at Ingkayuthaborihan military camp, after the first seven days under Martial Law warrant, the detention was extended under the Emergency Decree. On the third day,

at about midnight officials ordered me to take my shirt off [again]. They tied my wrists behind the back, blindfolded me and kicked me from a chair. There were about five officials, one held my head, and others held both legs and the torso. They covered my face with a towel and dumped water on my face, squeezed my nose four to five times and forced me to lie on my stomach, dunking me into the water container. They punched my abdomen many times and kicked me. They pulled me up and removed the blindfold and the tie. Then they turned on the air-conditioner and dumped water on me. I was also kicked, punched and slapped. They covered my head with a black plastic bag. The officials tortured me for three to four days, then interrogated and threatened me on a regular basis. I was at the Ingkayuthaborihan military camp for 28 days.” (H.07.2015)

“Four to five officials pushed me down and crushed my chest and my genitals under their feet”

DJ.11.2015

4.2.3. *Crushing*

Crushing occurs during an arrest, transportation, interrogation and questioning sessions. Officials often wear combat boots while crushing, thus, the pain can even be more aggravated. Some victims reported that they were crushed on the head, the back or the genital area. According to one 28-year-old survivor,

“Late September 2010, in Ramadan [the fasting month], while I was napping in a relative’s house in Saiburi District, joint operation forces, composed of the military, police and administrative officials arrived in more than seven trucks. At the time, I was alone in the house so I answered the door. The officials grabbed me and handcuffed my wrists behind the back. They ordered me to lead an official who escorted me at gunpoint behind the house. Another five officials walked after me. They had shields in one hand and a ready to fire rifle in the other. They directed me to a rubber plantation at the back of the house and ordered me to kneel. Then ten officials surrounded me in a circle and pointed their rifles at me. I was terrified that they would kill me. Then two to three officials jointly kicked me on the abdomen and the back, while cursing me non-stop. Some officials punched me with fists on the abdomen and the back. The cursed me as southern insurgent. An official pinned me to the ground and crushed my head three times with his feet.” (H.08.2014)

A 26-year-old survivor said,

“On 27 February 2015 four to five officials pushed me down to lie on my stomach and crushed my chest and my genitals under their feet. When I could not bear it any longer, I said I would confess. It was about 3am in the morning. The brought me some coffee and escorted me to my room. I could not walk and stumbled and could not breathe, so the officials massaged my chest and took me for a medical examination at Ingkayuthaborihan military hospital. I told a doctor at the

hospital I was tortured and there were wounds. However, I was not certain if the military doctor would record that I was tortured” (DJ.11.2015)

“In the most common method of waterboarding, the victim’s face is covered with cloth or some other thin material, and the victim is immobilized on their back at an incline of 10 to 20 degrees. Torturers pour water onto the face over the breathing passages, causing an almost immediate gag reflex and creating a drowning sensation”

4.2.4. Drowning, dunking and waterboarding

In classic water torture, victims are bound while hot or cold water is poured over a body part, mostly on the forehead. This method can exert tremendous pressure on victims because the torturers will pour water over a victim while clothed or naked. The torture is painful when it is done in a low temperature room. This method does not leave any traces.

Waterboarding is a form of torture in which water is poured over a cloth covering the face and breathing passages of an immobilized victim, causing the individual to experience the sensation of drowning. Waterboarding can cause extreme pain similar to drowning, damage to lungs, and may cause brain damage from oxygen deprivation. Other physical injuries include broken bones due to struggling against restraints. Waterboarding can cause lasting psychological damage, and death. Negative physical consequences can manifest themselves within a month after the event, while psychological effects can last for over a year.

In the most common method of waterboarding, the victim’s face is covered with cloth or some other thin material, and the victim is immobilized on their back at an incline of 10 to 20 degrees. Torturers pour water onto the face over the breathing passages, causing an almost immediate gag reflex and creating a drowning sensation for the victims. Vomitus travels up the esophagus, which may then be inhaled. Victims of waterboarding are at extreme risk of sudden death due to the aspiration of vomitus. According to a 35-year-old interviewee,

“On 29 February 2007, during an interrogation session, an official assaulted me by kicking, punching, slapping, threatening me with guns and that he would kill me if I did not confess. Seven officials interrogated and assaulted me until 6.30pm. While they were questioning me, they also assaulted me by kicking, slapping and punching. Three out of seven officials took me to a fishpond in the Special Force compound, and then they dunked me in the pond. My head was submerged in the water. The water got into my nose and ears. They did repeatedly. I was exhausted and weak. Then they interrogated while they kept assaulting me. I denied every charge. I was interrogated until 4am in the morning.” (H.03.2014)

A 33-year-old survivor reported,

“On 30 March 2007 three officials took me to an interrogation center. They kicked my chest for a confession. I had to wait in a cold room, so I slept. Then officials came and banged a

table, so I got up. They kicked my chest until the chair and I fell over. They continued kicking my torso and ordered me to strip naked. The other group of officials forced me to sign a document... but I refused because I thought it was weird. Then the officials became angry. They used a rubber hammer to hit various joints on my torso, submerged my head in a drinking water cooler, put a wet garbage bag over me, forced me to crawl naked and cry like an ox, hit rubber bands on my genitals, slapped my ears until I had a tinnitus.” (DJ.03.2014)

4.2.5. *Temperature extremes*

Exposure to heat or cold can result in harmful physical and psychological consequences. Exposure to heat for extended periods can result in dehydration, in confusion, lethargy, and loss of consciousness. Individuals exposed too long to extremes of heat can suffer hyperthermia, where the core body temperature can go up and can be potentially fatal. Exposure to extremes of cold can result in harmful physical and mental consequences, such as hypothermia, leading to a decrease in the body’s core temperature, which can result in arrhythmias, irregular heartbeats or even potentially death. People exposed to extremes of heat or cold are reminded of the experiences months or even years later: when they think about it, they have terrifying memories. Thus, the impact of exposure to heat and cold is both physical and psychological. A 27-year-old interviewee said,

“On 19 August 2013, officials escorted me to an interrogation room. The temperature there was very low, very near freezing. They were asking the same matters and pressured me to confess. Officials spent nearly four hours in that room. I had a pain from a previous wound on the spine. Three officials questioned me three consecutive nights at the same time and with the same use of air-conditioner” (H.10.2014)

A 41-year-old told us,

“In 2007, officials interrogated me from 9pm to 5am. There were three officials, taking turns to question me in a session. Interrogations were conducted in extremely low temperatures, with an order to strip, to be naked and to stand on one leg. The officials used psychologically degrading terms and insulted my religion. They poked my chest and gestured that they would throw an ashtray into my face. The interrogations lasted for seven days.” (H.12.2014)

A 30-year-old interviewee said,

“On 26December 2013, I was dragged to a dimly lit area and kicked with combat boots up to five times. They escorted and monitored me even when I went to toilet. They did not allow me to change my sarong, which I was wearing since the first day to the seventh day, and did not allow me to do

“They used a rubber hammer to hit various joints on my torso, submerged my head in a drinking water cooler, put a wet garbage bag over me, forced me to crawl naked and cry like an ox, hit rubber bands on my genitals, slapped my ears until I had a tinnitus”

DJ.03.2014

“They ordered me to walk or run barefoot on a scalding concrete road during daytime until my feet blistered from the heat on concrete”
DJ.10.2014

daily prayers. They all punched, smacked my head and nape of my neck, till I felt like I wanted to retaliate. They used plastic cable ties to bind my wrists at the back and seated me on a chair. I was kicked down from the chair. They did not let me shower and even made me lie face down under the sun from 10am to 2pm. I was assaulted in the same manner from early in the evening till dawn every day for seven days.” (DJ.12.2014)

4.2.6. *Flagellation*

Flagellation occurs when a victim is arrested, transported and questioned while being hit with firearms or timber covered with a cloth, to prevent any trace after flagellation. Victims reported being hit on the head, torso and both legs. The majority of victims in this report experienced forms of flagellation. By way of just one example, a 30-year-old former detainee told us,

“I was transferred to a prison. A prison official checked my case so they knew that I was indicted on treason and security charges. They took me to a place where no one was and hit me with a baton on the back two times and the front two times. At that time, I was not wearing any shirt and only had my sarong on. I was taken to a medical room to recuperate there for about two hour. In the prison I was giving a medicine to treat my bruises. Now I have recurring chest pain and tinnitus from time to time.” (DJ.02.2014)

4.2.7. *Foot roasting*

Officials may scald or roast the feet of a detainee by forcing him to run, walk or stand on sunburned pavement. According to one 30-year-old detainee,

“On 13 April 2014, while I was at Ingkayuthaborihan military camp, officials crushed my shoulders and threatened me to tell all information. On the second day, I said I did not know what made the officials furious. They attacked me and slapped my face. My mouth bled. They kicked my thighs twice. They ordered me to perform sit-ups 50-100 times, squats around 200-300 times, to walk or run barefoot on a scalding concrete road during daytime until my feet blistered from the heat on concrete. They changed the interrogation place all the time. Sometimes they used a room, at the center or under a tree. Interrogations also happened at night from 8.30-10.30pm. I was consecutively assaulted for a week. The officials gave me muscle relaxant medication and ointment after they ordered me to do sit-ups and squats.” (DJ.10.2014)

4.2.8. *Electric shocks*

Electric shock is a method to cause electric current to pass through the body. It occurs when the electric current from a

source of electricity contacts a part of the body through the skin, muscles or hair. Very small currents can be imperceptible. Higher current passing through the body may not be possible to cause electrical shocks to a victim. Nevertheless, larger currents can cause fibrillation of the heart and damage to tissues. Death caused by an electric shock is a form of electrocution. Victims of electrocution who survive may exhibit bizarre symptoms and physical pain. According to one 28-year-old survivor,

“On 11 January 2015, I was seated and handcuffed on a chair. Officials kicked the chair until the chair and I fell down... On the second and third day, they poked me with a hot iron rod once. They blindfolded me and beat me. They also threaten to shoot me, while an official showed me a pistol and pretended that he would shoot me to obtain a confession. On the fourth day I was electrocuted while being blindfolded. I felt the pain at the testicles but being blindfolded, I did not know what they were doing. They groped, pulled, and squeezed my genitals. I became frigid (my genitals are still contracted). I was stripped naked in a low temperature room before female officials and a female official pressed her breasts on my face. After many beatings, I had blood in my vomit, urine and stool, and my chest was bruised, red and swollen. Officials took me to a hospital where a doctor administered one injection and gave paracetamol. I passed out and loss consciousness for a day. I confessed on the fourth day because I was electrocuted.” (DJ.07.2015)

“On the fourth day I was electrocuted while being blindfolded. I felt the pain at the testicles but being blindfolded, I did not know what they were doing”

DJ.07.2015

4.2.9. *Forced eating or drinking*

Forced eating or drinking is a rare form of ill treatment used for detainees under the special laws in the southern border provinces. There are cases of forcing victims to eat or drink forbidden food or beverages according to Islamic principles. Thus, according to a 30-year-old interviewee,

“On 13 September 2006, I was asked by officials to have a meal. They took me to a Thai restaurant and asked me what I like to eat. An official forced me to drink alcohol, saying, if I did not drink, he would not know what to do with me. He said that if I did not drink I would have to go without any food.” (DJ.02.2014)

Additionally, detainees who refuse to eat meals arranged by the facilities may be forced to do so, but through conventional ways rather than the force-feeding used in Israel or at the Guantanamo Detention facility, where a feeding catheter is inserted through the nose.

4.2.10. *Kneecapping*

In some cases, officials deliberately target the detainee's knees, kicking them or hitting them with objects like rubber mallets.

According to a 28-year-old interviewee,

“After I had been
beaten for many
days, I was vomiting
blood, and had
blood in my urine
and stool. My chest
was bruised, red and
swollen”
DJ.07.2015

“On 11 January 2015, I walked out on a road, then an official kicked me heavily. I lost my balance and fell. They kicked me and slapped my head, then tossed me inside a vehicle. An official pressed his foot on my cuffed wrists and said ‘you die’. Officials crushed my back. If I moved, they increased the pressure. They threatened that I would die. I was seated and handcuffed on a chair. Officials kicked the chair until the chair and I fell down. They punched me in the stomach, legs, and calves for four days. They also kicked my kneecaps, countlessly punched my abdomen, and smacked my head, and nape of my neck several times. I was handcuffed behind the back. After I had been beaten for many days, I was vomiting blood, and had blood in my urine and stool. My chest was bruised, red and swollen. Officials took me to a hospital. When I prepared to show my wounds, officials then ordered me to leave. A doctor administered one injection and gave paracetamol. I passed out and lost consciousness for a day. Military officials had me sign a document, and then the police did also. I told them I wanted to read what the document was but they refused. When I did not sign it, they kicked my chest, punched my back, slapped my head down and kicked my back again several times, so I finally signed.” (DJ.07.2015)

4.2.11. Sexual assault

Sexual assault starts from forced nudity. A person forced to strip naked feels helpless and hopeless. Nudity enhances the psychological terror of every aspect of torture, because of the potential of abuse or rape. Furthermore, verbal sexual threats, abuse and mocking are also part of sexual torture, as they enhance the humiliation to victims. In many instances sexual assault is psychological as well as physical. Psychological harms can be most injurious. For men, those inflicting the torture may also cause the victim to become impotent or sterile, either actual or perceived. In the southern border provinces, sexual assaults involve nudity, attacking genitalia and electric shocks of the genitals. According to one 32-year-old survivor,

“In April 2015 I was called to Task Force 22. I went with my sister at 9am. They asked me a number of questions about my family till 6pm. At 7pm I was transferred to Ingkhayuthaborihan Camp. On the fourth day of interrogation, there were six officers in the room telling me to confess and saying that they knew my friend is an insurgent. I did not confess so they told me to take off my shirt. I did not confess. They told me to take off my pants and told me to sit and stand 10 times.” (DJ.14.2015)

A 39-year-old interviewee told us,

“On 20 October 2011, officials took me under custody to the Ingkayuthaborihan military camp, Bo Thong District, Pattani Province at about 4.30am. They asked where I had kept two guns. I said I did not know anything about the guns. When I replied that, the officials crushed my chest, slapped and hit my face many times. They also kicked my shoulders violently. Everyday, officials questioned me about the lost guns. During the five days that I was there, I was slapped and hit on my face every day when I denied knowledge of the guns. Some days, military officials ordered me to be naked, detained me in a room or ordered me to perform squats until I was extremely exhausted. I was detained for 26 days. I was slapped on my face, nose, and chest. They kept me in a low temperature room for 23 days. My body was shivering and cold. They squeezed my genitals harshly for five minutes. They told me I was stupid and I had been duped. They also threatened to kill me.” (H.03.2015)

“They took my clothes off and I was forced to remain naked for four hours while I was sitting and standing on a chair”

H.02.2015

4.2.12. *Stress positions*

Stress position torture involves forcing a person into a position that will be physically painful. Stress positions may cause long term or severe damages to the nervous system, joints, circulation and muscles. Mentally, they cause powerful humiliation and feelings of being out of control of oneself. Stress positions can cause pain or a feeling of being punished. For example, when ordered to shake one's hands over the head, a victim may feel a strong resistance and self-loathing for not following an order. One 29-year-old said

“On 14 October 2014, during interrogation, I was punched, kicked, and slapped on my chest, abdomen and head 15 times, while I was lying down. I had bruises, I felt numb, exhausted and I lost conscious. I was forced to sit in a chair position [without a chair] two to three times for two to three minutes at a time. Thus, my limbs felt exhausted and numb all the time. I was detained in a cold place for four hours until I felt chest pain. They pushed a barrel of a gun into my mouth once or twice for two-three minutes each time while I was sitting on a chair, thus I had a wound in my mouth and could not eat. When I was arrested, they took my clothes off and I was forced to remain naked for four hours while I was sitting and standing on a chair. The interrogation involved extracting my confession for torching a school.” (H.02.2015)

A 42-year-old torture survivor informed us that

“On 17 October 2014 during interrogation I was hit by a chair till the chair was broken. For one day and one night I was told to sit and stand for a long time while my hands

were tied at the back. I was naked and told to stand looking downwards for one day.” (H.04.2015)

“They force-fed me water and turned my body around many times. At 2.30am I passed out”
H.05.2015

4.2.13. *Water cure*

Water cure is a form of torture in which a victim is forced to drink a large amount of water during a short period of time, causing stomach gas and swelling. Excessive water in the body also can cause poisoning and may be life-threatening. A 26-year-old who experienced this technique said,

“On 27 February 2015, officials tied me to a chair, covered my face with a shirt and poured water into my mouth. They turned the fan on, took a shirt off from my head and suffocated me with plastic bags until I passed out. After I had regained consciousness, I struggled, so my hand ties were broken. They put new ones on. I could not breathe. They kept pouring water over my mouth until I was choking... They ordered me to drink two bottles of water.” (DJ.11.2015)

A 36-year-old survivor informed,

“On 22 March 2015, officials took me under custody and transported me to Special Force Unit 41 (Wang Phaya Special Force Unit) in Yala Province. At 8pm, the officials questioned and threatened me many times until dawn but I denied all accusations. Then at 10pm, they beat me without any questioning. They pushed me down to lie in a supine position and crushed my neck violently with their hands. After that they force-fed me water and turned my body around many times. At 2.30am I passed out. They pulled me up, sat me on a chair and threatened that they would be ten times more violent if I still denied it but I still denied it and said I did not know anyway.” (H.05.2015)

5. **Effects of torture**

5.1. *Physical effects*

Some observations of survivors on the physical damage caused to them include the following:

“I coughed blood and it was painful. I have bruises. My wrists havemarks from handcuffs.” (DJ.02.2014)

“I could not see properly and my tooth was broken after being pressed so hard with the gun. I was unconscious then.” (DJ.06.2014)

“The symptoms still persist. I have big lumps on my neck.” (DJ.08.2014)

“My mouth bled. My feet blistered from the heat on the concrete... My body constantly ached from performing sit-ups and squats, that I had to use muscle relaxant.” (DJ.10.2014)

“I have a scar on my hip. My eye was bleeding. My legs were also hurting. I was unconscious many times. The room was too cold and dark, there was no space in the room and I could not breathe. My chest was numb and hurt.” (DJ.11.2014)

“I cannot use my hands for heavy work. They are always painful. I have chest pain and I went to a prison hospital for a treatment.” (DJ.14.2014)

“My lips were bleeding, my chest was extremely painful. An official hit me with the handle of a gun and the right side of my face was bleeding.” (DJ.15.2014)

“Frigidity (genitals are still contracted).” (DJ.07.2015)

“Throat inflammation. I could not swallow my saliva because it was painful.” (H.05.2014)

“Genital pain.” (H.04.2015)

“The room was too cold and dark, there was no space in the room and I could not breathe”

DJ.11.2014

5.2. Psychological effects

In the study of Daniel Kramer entitled “The Effects of Psychological Torture”, (2010), Professor Almerindo Ojeda explained that the psychological effects of physical and psychological torture resulted in mental damage such as anxiety, depression and PTSD (Post Traumatic Stress Disorder). Importantly, the state of the brain is no longer the same as before the torture. In this regard, the victims of torture in the deep southern provinces of Thailand are not different from others elsewhere. According to our findings, the main signs of psychological effects on the victims are as follows.

5.2.1. Effects on individuals tortured

Those who have experienced torture often have a common thought “that no one understands me except myself”. They try to avoid meeting others and won’t trust other persons. Fear of painful memories causes behavioral change, which might bring about problems of social interaction. The victims have nightmares, a feeling of being haunted, and are always able to recall the bad time of detention; are stressed, worried and anxious all the time; hurt and depressed; want to be alone, are unwilling to see others, are discouraged, hopeless, always worried and afraid to have same bad experiences; have poor concentration, and suffer Attention Deficit Hyperactivity Disorder (ADHD).

In group therapy (see section below) victims of torture in the deep south of Thailand related that their problems included:

“I feel anxiety all the time. I am afraid to see officials when I drive a car. I try my best to avoid seeing any officials”

DJ.10.2015

1. A feeling that others in society hate them
2. Fear of assassination
3. Inability to take good care of their families
4. Drowsiness
5. Insomnia
6. Fear and desire to flee when the military comes to visit them at home
7. Decision-making potentiality reduced; inability to answer or respond promptly
8. Frustration at inability to think clearly and come up with answers
9. Distrust of others
10. Hesitancy to join social gatherings or interact with others
11. Fear of surveillance if they return to perform their roles in society

Where victims are always worried it is a sign of trauma, which is not congenital disorder but is caused by a serious physical attack that then affects the mental state and results in changes of victims' mentality and behavior. Torture results in a loss of feeling of self-control, weakness and helplessness. Side effects that affect the physical and psychological health of the person include stress which makes the muscles painful and strained, make the person tired, slow-thinking, not lively, dull, moody and dizzy all the time. All these effects are due to the physicality of torture. During the assault, the victims want to respond and also to run away. But since the victims couldn't do either, then they feel exhausted and suffer a loss of control over their bodies. In a study commissioned by the CrCF based on 79 cases of torture in the deep south of Thailand, Professor David W. Engstrom from San Diego State University and a coauthor concluded that based on preliminary findings "there was significant psychological distress resulting from torture experiences and that this distress also tended to persist over many years". The analysis and findings are contained in a supplement at the end of this report.

When asked in interviews about their current circumstances, some of the interviewees replied:

"Stressed, depressed, don't want to talk with anyone... don't want to be with anyone but want to be alone." (DJ.04.2014)

"Stress and anxiety! Why was I arrested again and again for something I hadn't done? I am angry that I didn't get justice from the state. Bad experiences and ill feeling cannot be removed but I have to tolerate them as much as possible." (DJ.10.2014)

"I was angry when I was arrested. That's painful. They did everything against me with whatever equipment at hand. I felt pain all over my body. I felt it was like the end of my life. I tried to fight for survival but it was really hard. But when I was released, I felt uneasy and skeptical. I had to be alert

and be aware all the time. I feel anxiety all the time. I am afraid to see officials when I drive a car. I try my best to avoid seeing any officials.” (DJ.10.2015)

“At first, when I was arrested, I was so anxious, especially worried about my children, wife and family members. How were they going to live when I was not around? I was no longer able to protect them when I was tortured. I was fed up and felt hopeless with the violent interrogation. They treated me just like I was an animal. They hurt me badly. Sometimes, I just suddenly felt I wanted revenge. Sometimes, I was nervous and could not sleep. After a while, I got used to it. But this does not mean that we can let it go. These bad officials need to be brought to justice for their misbehavior and torture of the victims.” (H.01.2014)

“Victims’ wives observed that after their release from detention their husbands tended to be in a bad mood and emotional; not take care of their health and fixate on work; became violent, beating their kids whenever nervous; and, would not associate with anyone”

5.2.2. *How the families of the victims cope*

The psychological effects are felt on the wives, children and family members because the victims would feel uneasy, and suddenly angry when there is stimulation that might bring about the violence in the family. One respondent said he was aware of the effects on his family:

“I was so angry because I didn’t do what I was accused of. I feel I am a scapegoat. I am so worried about my family, my dad, mom, my children and wife and how they are going to live [with me like this]. I was so angry since neither I nor my relatives did anything wrong.” (DJ.07.2014)

In group therapy, victims’ wives observed that after their release from detention their husbands tended to be in a bad mood and emotional; not take care of their health and fixate on work; became violent, beating their kids whenever nervous; and, would not associate with anyone. Other things that might cause them to change mood and behavior could include dark places, or a particular colour, like khaki green, which would remind them of the military. Some concentrated too much on certain things; some felt exhaustion and weakness all the time, while some could sleep deeply but often woke up frightened. Some couldn’t make a decision within a limited time.

These kinds of behavioral changes affect the physical and psychological aspects of the families of the victims as well. When the dignity of the victim is deprived, then the victim might do the same to others.

5.2.3. *Impact on national and state security*

Many people might not understand how torture will affect national and state security. The torturers are representatives of state agencies. When the victims of torture get angry, then

“I feel very angry. I want to fight back”

DJ.01.2015

they may want to take revenge against the state or look at state agents negatively. So, the credibility of the state is reduced. It is challenged and mistrusted. Questions may be raised over the credibility of the legal system or the justice system. At the end, it might bring about a violent confrontation. When asked about their feelings about what had happened to them, interviewees replied:

“I feel very angry. I want to fight back. There is no hope for the officials who didn’t stop those who committed the crime of torture.” (DJ.01.2015)

“I felt angry about the officials who treated us badly and inflicted pain on us. They treated us just like we are objects. I have never done anything bad to others. I felt inferior, born as a Malayu in Pattani whose rights and dignity are being ignored and undermined all the time. I am still anxious even now. I can still remember almost everything, every step the bad officials have done to us, those images are still haunting me until now.” (H.02.2014)

“I really feel painful at this time and want to take revenge against the state officials. I have no trust and no confidence towards the government officials in the area. I feel unsafe for my life and property. Officials who came to look around in these areas are really meaningless and useless.” (H.04.2014)

“I am very angry. I am so skeptical about the officials and will never trust them any longer.” (H.06.2014)

“Other people looked at us as terrorists in the three deep southern provinces. So how can we live in this society, then? We are still angry over the officials who are so cruel and inhuman towards us. We are also worried when thinking about what happened to us and our friends in the past.” (H.13.2014)

“I’m so angry about the government officials. I feel sorry about what had happened. I never thought that we got the same treatment as others even though I hadn’t committed any crime.” (H.14.2014)

6. Prosecuting torturers

There are number of complaints of torture arising from the situation of unrest in the deep southern provinces of Thailand that have gone to court. However, not a single case has been recorded where officials suspected of inflicting torture have been imprisoned.

In only one case, where the Pattani Military Prosecutors office filed a case against Sergeant Major Kwanchai Srinil in the Military Court, for physical assaulting a 14-year-old boy called Adil Samae from the province, and Masaofi Kwaenboo, aged 20,

did the Military Court on 26 April 2010 sentence the defendant to one-year imprisonment and fined him 4,000 Baht (USD110). Since the defendant confessed to the crime during the hearing, the court reduced the sentence to a 6-month imprisonment and 2,000 Baht fine. However, as the defendant did not have any prior convictions and behaved well during the trial process, then the court ordered the suspension of punishment for two years.

[*Editorial note:* Following the release of the original report on torture in the deep south in January 2016, on 18 May 2016 the Supreme Administrative Court of Songkla, which is not a criminal court but a civilian administrative court that can issue orders of financial restitution, ordered the Internal Security Operations Command (ISOC) to pay 101, 200 Baht and 100,000 Baht to the two victims in this case, with interest, coming to around USD5000 per victim. The civil case filed with Songkhla Administrative Court sought that the defense ministry, the army, and ISOC compensate the victims for the harm caused by the soldiers in their line of duty. See further below, on financial compensation.]

“Work for the reparation and recovery of torture survivors in Thailand is still at an initial stage”

7. Victims’ reparations and recovery

Work for the reparation and recovery of torture survivors in Thailand is still at an initial stage. CrCF, Duayjai and HAP are trying to set up a joint project to build a Rehabilitation Center for the Victims of Torture. The effort has started by inviting experts from abroad, both psychologists and psychiatrists who are experienced in medical and psycho-social remedies, to help the victims to recover from severe mental trauma caused by torture.

In order to work for the safety of the victims of torture, the requirements are:

- Working openly
- Creating social awareness
- Building up the networks of victim families in the community
- Offering both physical and mental remedies together.
- Paying attention to social, economic and psychological needs all together

Specific methods and means of remedies include the following.

7.1. Group psychotherapy

Group psychotherapy applies a well-planned group dynamic, by a special professional team. This group dynamic emphasizes conversation and exchange of views and ideas as well as some suggestions and recommendations for further improvement, attitudinal change and resolving the problems of the group members. The main concept of the group psychotherapy is peer-to-peer consultation, mutual help, building trust among the group members, relaxing from stress, resolving internal matters

“Survivors or relatives of victims who died from torture can only hope to receive a financial remedy after administrative court orders”

and overcoming the obstacles of the group members. Group psychotherapy also aims to share concerns and learn how to apply appropriate psychological mechanisms correctly. Group members also learn how to manage their emotions, proper expression, build up good relationships within the group, uplift and regain their self esteem, and develop an understanding of oneself.

7.2. Movement therapy

In the area of psychological therapy, H2H, a specialized organization, proposes movement therapy to improve the movement, balance, strength and flexibility of victims, strengthen the muscles, improve joint and muscle flexibility, improve blood circulation, protect injuries, etc. Movement therapy is also good for practicing meditation, managing emotional balance, appetite, and anxiety. It is also good for attitude and emotional adjustment. Movement therapy is reported to enhance self-respect and reflection and build up communication capacity and a higher level of tolerance.

7.3. Challenges for the rehabilitation of victims of torture in Thailand

1. Victims of torture do not yet have confidence in the institutions that provide remedies (rehabilitation centers) and are unwilling to join programs. Many victims insist that they are still normal.
2. Lack of rehabilitation experts for both physical and mental health for the victims of torture.
3. Lack of rehabilitation centers for victims of torture.
4. Lack of physicians/medical experts and increasing costs associated with treatment.
5. The opportunity to hold meetings between medical experts and medical doctors at provincial levels for further collaboration is lacking.

8. Financial compensation

In most cases, survivors or relatives of victims who died from torture can only hope to receive a financial remedy after administrative court orders. It is quite difficult to get compensation for torture unless there is clear physical evidence that has been investigated and reported by medical experts. In cases where death has occurred there may be some signs of torture that might have occurred during the detention (or under custody) of the officials, and these cases may be more successful, although they do not lead to criminal prosecutions. One example is the case of Imam Yapa Kaseng. After some compensation was paid, further legal action was terminated.

[*Editorial note:* This case is discussed in an article by Nick Cheesman, Bina D’Costa and Tyrell Haberkorn, ‘Anticipating the struggle against everyday impunity in Myanmar through accounts from Bangladesh and Thailand’, available for free download from the website of *Asia & the Pacific Policy Studies*, vol. 3, no. 1, pp. 45–58. Tyrell Haberkorn discusses the case at greater length in ‘When torture is a duty: The murder of Imam Yapa Kaseng and the challenge of accountability in Thailand’, published in *Asian Studies Review*, vol. 39, no. 1, pp. 53-68.]

In another case of a victim named Asa-aree, Ms. Bae-doh Sama-ae, the plaintiff, filed the case in the Songkla Administrative Court seeking to recover damages from defense ministry, the army and the Office of the Prime Minister due to the fact that the offenders are the officials representing these offices and they had caused damage to the victim during their operation by exercising power under Martial Law to detain the son of the plaintiff and company. The officials had allegedly tortured and beaten the victims to death during their detention. The Supreme Administrative Court ordered the Office of the Prime Minister to pay the restitution to the plaintiff with the amount of 534,301 Baht (approximately USD14,750) with interest. The other three respondents were exempt from making payments.

Other cases include the following.

8.1. Rayu Dorkor’s Case

On 20 January 2015 the Supreme Administrative Court opened the first hearing of the Undecided Case 39 No. O. 464/2555, the case of *Mr. Rayu Dorkor (plaintiff) v. Ministry of Defense / Royal Armed Forces / National Police Office/ Office of the Prime Minister (respondents)* on the violation committed by administrative agencies or their state officials while exercising their legal authority.

In this case there had been assaults and serious harm inflicted on the plaintiff physically and mentally when he was only 18 years old. He was also forced to be in the same prison together with adult detainees. There were medical check-up reports from both military hospital (Inkayuthaborihan Camp Hospital) and international agency (International Rehabilitation Council for Torture Victims - IRCT). The judge formed the view that the Office of the Prime Minister as the agency supervising ISOC should pay compensation to the plaintiff as physical, health, psychological and civil liberty damages, as well as restitution for the damage to reputation and dignity from a press conference called against the victim affecting his income from employment to the total amount of 233,036 Baht (around USD6430) with interest.

“In another case the plaintiff filed the case in the Songkla Administrative Court seeking to recover damages from defense ministry, the army and the Office of the Prime Minister due to the fact that the offenders are the officials representing these offices and they had caused damage to the victim during their operation by exercising power under Martial Law”

8.2. Mr. Isma-al Tae's Case

“The record of cases in Thailand's courts so far is one of failure to deal with the phenomenon of torture”

On 13 January 2015, the Supreme Administrative Court opened the first hearing in the case of *Mr. Isma-al Tae and Mr, Armesi Manak (plaintiffs) v. Royal Thai Armed Forces and Ministry of Defense (respondents)* for exercising their authority in accordance with the Martial Law Act B.E. 2457 (1913) as compensation for detaining the university students of Yala Rajabhat University. Earlier, the Songkhla Administrative Court ordered the army to pay damages for torture, setting compensation for the affected persons as per the Compensation Act and the Ministerial Rules, as the standard in calculating the amount of compensation. If so, the plaintiffs would get only 45,400 Baht (about USD1250) each. But the Songkhla Administrative Court ordered compensation of 255,000 Baht and 250,000 Baht respectively, including medical fees and rehabilitation costs of 30,000 Baht each; reparations of 15,000 Baht each; and loss of daily income at 200 Baht per day.

In sum, although compensation amounts are increasing the record of cases in Thailand's courts so far is one of failure to deal with the phenomenon of torture:

- Failure to bring perpetrators to justice;
- Failure to provide adequate reparation to the victims of torture;
- Failure to adequately compensate those who have lost the opportunity to earn income; and,
- Failure to issue orders for provision of psychological remedies and rehabilitation at the state expense.

9. Preventing torture

To prevent torture in Thailand, the following changes must be made to laws and practices.

9.1. Laws

1. **Lift** the Martial Law Act B.E. 2457 (1903), Administrative Decree on the State of Emergency, and other provisions that enable officials to commit torture;
2. **Enact** laws consistent with the UN Convention Against Torture and Other Cruel, and Inhuman or Degrading Treatment or Punishment (CAT), which requires the State Party to make torture a crime; and,
3. **Amend** laws, orders and regulations that undermine efforts to prevent torture, such as the rule preventing detainees from meeting their relatives and lawyers; and laws and orders posing obstacles to the forwarding of cases to the National Anti Corruption Commission (NACC) or the Public Sector Anti-Corruption Commission (PACC) for investigation, for instance.

9.2. Practices

1. **Instruct** officials at all levels related to the control and detention of suspects in universal human rights principles especially CAT;
2. **Facilitate** rapid and transparent judicial investigations into places of detention wherever cases of torture are reported;
3. **Change** the procedures concerning visits to prisons and detention centers so that officials cannot interfere with conversations between visitors and detainees or stay too close to private meetings between detainees and their relatives;
4. **Permit** visits by credible agencies to places of detention whenever complaints of torture are received, so as to collect information and seek to reassure that the victims will not be tortured again; and,
5. **Promote** independent and credible forensic scientific/ forensic medical institutions to be available and accessible promptly and free of charge for medical check-up, autopsy/ post-mortem examination, and examine any other physical or forensic evidence/ materials related to cases of torture.

Annex: The death in custody of Abduldayib Dolah

This annex consists of the details of a single illustrative case of a death in custody in the south of Thailand due to suspected torture that was among a number of annexures to the original report featured in this issue of article 2 on 'Torture in Thailand's deep south'.

At 8am on 4 December 2015, relatives of Abduldayib Dolah, who was being held in custody at the Ingkhayuthaborihan Military Camp, Pattani, in the deep south of Thailand, were informed that he had died while deprived of his liberty.

Abduldayib Dolah, 45 years, from Ban Mai, Tambon Kolotanyong, Nongchik District, Pattani, was apprehended on November 11 that year at 1am. His relatives sought help from the Muslim Attorney Centre Foundation and the National Human Rights Commission (NHRC) on November 12. Later, they had been visiting him in detention. The last visit took place on December 3.

At 10am on the day of the death, the Internal Security Operations Command (ISOC) Region 4 contacted the Duayjai Group and a few other civil society organizations to observe the investigation of his body at the Ingkhayutthaborihan Military Camp, Pattani, together with his relatives.

After the autopsy as provided for by Section 150 of the Criminal Procedure Code, an attempt was made to clarify the matter with his relatives since from looking at the appearance of his body, one could not determine the cause of his death. After coordination with staff from the NHRC and the forensic medicine center of the Prince of Songkhla University, Hatyai, the relatives consented to having the body examined by a forensic doctor around 1pm. After that, the body was retrieved for religious rites the same day. However, for religious reasons the family did not allow the forensic doctor to conduct a full autopsy, only allowing the taking of blood, examination of blood stains on the deceased man's chest, sperm stains, and saliva to test DNA.

Two days after Abduldayib's death, the local army unit set up an investigative committee, and on December 16 it organized a press conference with the forensic doctor and released the finding that the cause of the death was not found. Abduldayib's wife then submitted a letter to the UN Special Rapporteur on Torture, as follows.

25 December 2015

Dear UN Special Rapporteur on Torture

Subject: A request for an inquiry into the death of Mr. Abduldayib Dolah whose death in custody took place in the Ingkhayutthaborihan Military Camp and asking for justice

On 11 October 2015, at 01.30am, combined forces of the military with over 100 officers laid siege to the house no. 35/1 Moo 1, Ban Kolo Tanyong, Nong Chik District, Pattani, while I and my husband (the deceased) were sleeping in there with our three children. The officers with their threatening voice asked us to open the door and came in to search the house. Though no illegal things were found, they decided to apprehend my husband and took his ID card, 170 Baht of cash and one mobile phone.

Prior to this, our house had been cordoned off four times and I was told that my husband had been involved with narcotic trade, though no illicit articles had been found in each search. But the sieges had terrified our family and our relatives since the military officers came wearing their facemasks.

On 12 October 2015, I was able to visit my husband and gave him support. We were able to talk normally and I could not recall any abnormal things that happened to him.

On 13 October 2015, I went to visit him as normal, but was unable to ask for his wellbeing since the military officers sat by and listened to the entire conversation.

On 14 October 2015, I could only visit him for ten minutes and was barely able to talk with him.

During his custody at the Ingkhayuthaborihan Military Camp, I managed to visit him every day. During the last week prior to his death, I could observe how he was consumed by his stress and fear as he disclosed to me that he had been subjected to intense questioning by the officers. He said he felt so desperate and scared. He also said that he had been subjected to intimidation and forced to make a confession to being complicit in a criminal case. I did not ask him which case he was talking about and where it took place.

“The sieges had terrified our family and our relatives since the military officers came wearing their facemasks”

-Kurosmao Tuwaebusa

“The Village
Headman whispered
to me that my
husband had died. I
was so overwhelmed
by grief and had
no idea what to do
further. I had never
expected this to
happen”
-Kurosmao Tuwaebusa

But he said he did not admit to doing it since he had not done it. He disclosed to my visiting relatives that during the interrogation, he felt so hopeless. I asked him back when did the interrogation take place? And he said it happened around 1.00-2.30am. I then told him to be patient and that he would be discharged in the next few days.

On 4 December 2015 at 7.30am, local military officers came to meet me at my home telling me that I could pick up my husband. I was so delighted as all members in my family and my children were looking forward to welcoming him home and to living together again. Then, I was slightly taken aback as the officers told me to ride with them in the same car with the Village Headman, whereas my other relative was to ride in another vehicle. I thought in my mind that there must be something wrong. Upon arrival at the Ingkhayutthaborihan Military Camp, I saw a number of military officers standing there and the Village Headman whispered to me that my husband had died. I was so overwhelmed by grief and had no idea what to do further. I had never expected this to happen.

My husband was innocent and hardworking; he always worked to raise his family and had to look after three children and one adopted orphan. Why did the authorities have to treat him like this? And the death of my husband was not the first death in custody in a military camp. Then, the military officers arranged the body examination bringing in a physician from the Ingkhayutthaborihan Military Camp Hospital to carry out the procedure. While the examination was conducted, I had already presumed that the result would turn out that way. I was convinced there were so many doubts about the death of my husband. I decided to ask for advice from the Muslim Attorney Centre (MAC) in Pattani and to arrange for the autopsy of the body at the Hatyai Hospital to seek justice for my husband. The autopsy was conducted from 14.30-15.00 and my relatives asked the physician to examine traces outside the body, DNA samples from his saliva, semen, bloodstain on parts of his body, and watery fluid in his eyes to detect any chemical residue. During the body examination, it turned out that military officers were guarding outside the room and had some quarrel with the physician from time to time. At 15.00, the examination was completed and his body was taken outside the room and had been retrieved to perform religious rites.

Two days after the death, I learned an independent inquiry committee was set up by the Internal Security Operations Command Region (ISOC Region 4) to look into the case led by civilian officers at the provincial level. But the establishment and procedure was without any participation from relatives of the deceased. The wife and relatives of the deceased also proposed that international human rights agencies or the

United Nations should be involved with the inquiry process, but the proposal was flatly turned down even though it is important the inquiry is conducted by persons who could command confidence and trust from the family.

On day two of the meeting of the inquiry committee, the officers sent an invitation to me and other relatives of the deceased asking us to participate, but I refused to do so since I had no trust in the process and did not believe the inquiry committee set up by the state was independent and able to work straight forwardly to uncover the truth. I thought, to ensure justice, it must begin with the acknowledgement of the reality. There have been many lessons learned from previous incidents in the Deep South including the Tak Bai incident, the torture of Imam Yapa Kaseng, the unprovoked firing at villagers who were on the way back from a funeral at Ban Pulo Puyo and the death in custody of Mr. Sulaiman Nasae. It reflects the constraints of the state mechanisms and how such mechanisms lack independence and have failed to bring justice to the victims and society as a whole. I therefore refused to participate in the meeting of the inquiry committee until the UN mechanism is invited to take part in fathoming the truth.

On 16 December 2015, when the result of the physical examination of my husband was announced at the Hatyai Hospital. The physician said the cause of death could not be determined. I and other relatives were overwhelmingly disappointed since there were so many doubts about the death of my husband including that his death occurred in a holding cell and [due to] his last appearance:

(1) He lay with hands contracted as if he had been subjected to stimulation by some device. In a normal circumstance, when a person dies, the muscles should go loose and the hands should lie low. (2) The prayer mat (*sue da jao*) under the body looked crooked as if it had been tugged. (3) On his body, bloodstains could be found though the physician was unable to determine who the blood belonged to since there were no wounds found on the body. (4) On the last day he lay dead, he appeared to wear two shirts with the inner one a white t-shirt and outer one a buttoned-up long-sleeved shirt. Habitually, my husband had never worn two shirts at the same time. I and the relatives assumed that he was brought into the room for questioning and was tortured to death. Then, they put the shirts on him and arranged his posture to pretend he had died of a natural cause. The physician told me his death would have happened around 02-4.00am, during which time he was subjected to the interrogation of the officers. The information was contrary to what the military said, that he died around the morning prayer time at 05.30am.

“I had no trust in the process and did not believe the inquiry committee set up by the state was independent and able to work straight forwardly to uncover the truth”

-Kurosmao Tuwaebusa

This case shows how Thailand's justice process fails to provide justice. The inquiry committee has been set up with limited power and has to work through an unaccountable process without any consultation or input from the relatives of the deceased. As the wife of the deceased, I urge that international mechanisms including the UN should be part of the effort to investigate the death to ensure justice.

Yours sincerely,

Mrs. Kurosmao Tuwaebusa
(Wife of the deceased)

Rehabilitation of survivors of violence

*David W. Engstrom, Professor of Social Work,
San Diego State University*

Comments by Dr. David W. Engstrom at the “Torture Law—Awaiting Justice” meeting held in Bangkok on 29 June 2016, jointly organised by the Department of Rights and Liberties Protection, Ministry of Justice; Office of the United Nations High Commissioner for Human Rights, International Commission of Jurists, Cross Cultural Foundation, Justice for Peace Foundation, and Amnesty International – Thailand.

Let me start by thanking the forum’s organizers for putting together this event to honor the UN Torture Day and the survivors of torture throughout the world.

Survivors of violence such as domestic violence, sexual assault, child abuse and torture have many things in common.

First, the perpetrators of violence do not want their acts made public. To keep the violence secret they may threaten victims with further harm. Or, they may tell victims, if they make public the violence, no one will believe them.

Keeping survivors silent reinforces the injustice of acts of violence.

Second, if survivors of violence make public what perpetrators have done, public authorities may struggle with recognizing the claim. That is, public authorities like the police, courts, may deny that it happened or blame the victim for the violence. They may say, “Rape survivors deserved the assault because they dressed incorrectly. Wives did something to justify the anger of husbands. Torture survivors are terrorists and deserve maltreatment.”

Having the act of violence recognized by the public and officials is the first step towards justice but it must be accompanied by policies and procedures to investigate the act and to hold the perpetrators accountable for their actions. The procedures should avoid retraumatizing the victim and provide for their safety. At the

“That torture is associated with significant psychological trauma is well supported by the scientific literature”

same time the procedures should ensure accurate and detailed gathering of evidence to verify that the act of violence did indeed occur. In the US, we have learned not to have children testify in the same court room as the alleged child abuser. We have learned that sexual assault survivors need special forensic examinations gather evidence.

Torture survivors face the same burdens but have an additional challenge because their violence was perpetrated by agents of the state. Governments steadfastly deny that they torture. For example, the Bush Administration denied that it tortured even when overwhelming evidence showed otherwise.

And US asylum procedures show the difficulty of torture survivors validating their claim of harm. Asylum proceedings place the burden of proof on asylees: They must prove to government officials and judges that they were persecuted and often tortured. Without witnesses and corroborating evidence, asylum is usually denied. (More on this point later)

Survivors of violence have a third thing in common. Violence leaves clear physical and psychological marks on its victims. Bones are broken, muscles and organs are damaged. Yet the psychological scars are often the deepest and most difficult to heal. We know that violence causes Post Trauma Stress Disorder (PTSD), Depression, Anxiety, Stress and Diminished Social Functioning.

That torture is associated with significant psychological trauma is well supported by the scientific literature. In just one psychology database, there are 334 articles on torture and PTSD and another 198 on torture and depression.

Significant levels of psychological trauma are difficult to heal if left untreated. Research and clinical observation show that even years after the torture event, survivors of torture often have significant levels of distress.

Because violence can be so damaging, the need for rehabilitative services for survivors of violence is an important element of justice. Domestic violence survivors may need temporary shelter, therapy and help starting life anew. Sexual assault survivors may need peer-group support and medications to manage their PTSD symptoms. And torture survivors may need a range of medical and psychological service to rebuild their lives.

Unfortunately, rehabilitative services are often slow to be developed, funded and maintained. That is certainly the case for torture survivors. While torture has gone on for thousands of years, it has only been in the past 30 years that specialized services have been developed.

Yet, there is a clear mandate to provide rehabilitative services for torture survivors. Article 14 of CAT states:

“Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.”

As a signatory to CAT, Thailand has committed itself to abide by its provisions, including the need for rehabilitative services. As of today, there are no formal services for survivors.

The UN CAT Committee has asked Thailand to remedy the lack of services when identified the “absence of systematic provision by the State of rehabilitation and redress to victims for the physical and psychological consequences of torture.”

The good news is that Thailand is in a position to move quickly to address the concerns of the UN CAT Committee. There are a number of rehabilitative models Thailand can adapt to heal the wounds of torture. These models can be found in Cambodia, India, Zimbabwe and other countries. Thailand has trained medical and psychological professionals who can facilitate healing. Thailand has strong communities that can be tapped to provide support for survivors. What is urgently needed is funding to pull all of the elements of rehabilitation together.

One further point on the role of professionals in torture rehabilitation. In the US, physicians, social workers, and psychologists can conduct independent forensics evaluations using validated instruments to help asylum officers assess the truthfulness of claims of torture and persecution. Their reports are often crucial in the decision to award or deny asylum. In Thailand, having independent medical and mental health professions trained in forensic torture examination can help survivors and the government at the same time.

Let me conclude with two observations. First, if left untreated, the wounds of torture may fester, may prompt a strong urge for revenge. If you do not provide rehabilitative services to torture survivors, some of them may come back and negatively affect us. At its worse, torture may harden a hatred of society and the state. For example, we should remember that Ayman al-Zawahiri, the present leader of Al-Qaeda, was tortured before he joined Osama bin Laden.

Secondly and more positively, rehabilitative services should harness, should emphasize the resilience of torture survivors. People who are survivors of torture are strong. Even those most damaged, may be able to regain their lives. Some may be even stronger because of their torture. Survivors are resilient and we should build our rehabilitative efforts around that strength.

**“If left untreated,
the wounds of
torture may fester,
may prompt a strong
urge for revenge”**

Human rights defenders under attack in Thailand, again

Thailand Desk, Asian Human Rights Commission

Staff members of the Thailand Desk of the Asian Human Rights Commission have assembled this note on the threats to the authors of the report featured in this special issue of article 2 on 'Torture in Thailand's deep south' from public media and human rights groups' sources.

The Cross Cultural Foundation (CrCF) is an organization that monitors and documents cases of torture and ill-treatment in Thailand. In 2002, The CrCF was officially registered and since then the group has worked closely with its partners, such as the National Human Rights Commission of Thailand, Lawyers Council of Thailand, and Thai Volunteer Services to facilitate legal aid and access to justice for vulnerable groups.

In 2014 and 2015, the CrCF together Duayjai Group, which is based in Thailand's deep south to support people who suffer injustice at the hands of state officers, and the Pattani Human Rights Organization (HAP) worked together to produce a torture report compiling and analyzing 54 cases of torture and ill treatment in Yala, Pattani and Narathiwat provinces, southernmost Thailand.

The report was partly funded by the United Nations Voluntary Fund for Victims of Torture, established under the UN General Assembly resolution 36/151 in 1981. Somchai Homlaor, president of the CrCF, Pornpen Khongkachonkiet, its director, and Anchana Heemmina, director of the Duayjai Group, worked as co-editors of the report.

Before the public release of the report, the authors and editors went to the trouble of submitting it directly to the army. On 8 January 2016, Anchana personally handed the report to General Aksara Kerdphol, the chief negotiator for the peace talks as appointed by 2014 coup leader Prime Minister General Prayut

Chan-O-Cha, and the Fourth Army Region Commander, Lt Gen Wiwat Pathompak. On behalf of the human rights defenders, she requested of the generals that they initiate investigations into the cases compiled from the interviews of 54 victims of torture while being held in custody of security officers during 2015, 2014, and earlier. In a press release issued at the time, the groups said that,

“By submitting the report directly to the high level agencies with direct responsibility, we hope that an effort shall be made to uncover the truth. It helps to keep alive the hope of the taskforce [comprising of CrCF, Duayjai and HAP] that the end of torture could be achieved and that the death in custody of Mr. Abduldayib Dolah on 4 December 2015 [see annex to the report in this issue of *article 2*] would be made the last of its kind in the Deep South... if a ban is publicly made on the use of torture [and] a genuine effort is being made to investigate the cases fairly and to bring the perpetrators to justice even though they could be just a fraction of the officers [then] we hope it will be the beginning of the peace talks in earnest...”

On 10 February 2016, the CrCF and the Duayjai Group launched the report, entitled *Torture and Ill Treatment in the Deep South Documented in 2014-2015*. The army responded not by considering the allegations and indicating that it might act upon them, but on the contrary, by threatening all three editors and the human rights groups who supported them in the documentation.

As noted by the Asian Human Rights Commission in a statement (AHRC-STM-019-2016) one day after the release of the report, Major General Banpot Poonpien, the spokesperson for Thailand’s

“On 10 February 2016, the CrCF and the Duayjai Group launched the report, entitled *Torture and Ill Treatment in the Deep South Documented in 2014-2015*. The army responded not by considering the allegations but by threatening all three editors”



Pornpen Khongkachonkiet, Somchai Homlaor, and Anchana Heemmina

“Why [are the report’s authors] invoking just the international laws while forsaking the methods of inquiry provided for by domestic law, since such an act could possibly amount to a defamatory offence”

-Maj. Gen. Banpot Poonpien

Internal Security Operations Command (ISOC), promptly accused the human rights groups of fabricating accounts of torture to obtain funding from abroad. He also asked whether or not the groups had the mandate to investigate the work of state officers.

Incredibly, the officer ended his statement with a threat that they could be committing defamation by issuing a report referring to international human rights law: “Why [are the report’s authors] invoking just the international laws while forsaking the methods of inquiry provided for by domestic law, since such an act could possibly amount to a defamatory offence,” he said.

On February 14, Colonel Suratep, head of the Civil Society Organisations unit in ISOC, contacted Anchana and other activists who were involved in compiling the report and summoned them for a discussion. Anchana presented herself at Sirinthon Army Camp in Yala Province for the discussion with seven security officers. The meeting lasted two and a half hours, during which the officers questioned her about the cases in the torture report. The officers expressed their discontent with the report and requested the human rights defender to henceforth submit all of her publications to the ISOC prior to their release. She refused to do so.

On 8 June 2016, Pornpen Khongkachonkiet got information through a phone conversation with ISOC Region 4 that it had already sought power of attorney from the army and had submitted a complaint to Pattani Town Police Station on 17 May 2016 for criminal defamation under section 328 of the Thai Criminal Code, and violation of the Computer Crimes Act B.E.2550 (2007), section 14(1). Authorities have already interrogated six witnesses and the police case file number is 704/2559.

Defending the decision to prosecute, the Thai military said that this was its way of acting to defend the honour of the country. Colonel Pramote Promin, a spokesperson for ISOC Region 4 rebuked human rights groups abroad that criticized the decision—groups like Human Rights Watch, Amnesty International, Frontline Defenders, and Lawyers’ Rights Watch Canada (see letter concerning the case appended to this article)—alleging that the three domestic groups had intentionally distorted facts to cast the military in bad light.

In an even more sinister development, he indicated that the army had succeeded in identifying, on the basis of the de-identified information in the report, 18 of the cases in the report, but that in none of the cases was there any evidence of torture. He imputed that the other cases were fabrications.

This is not the first instance that the army has attempted to sue the three human rights defenders. In September 2014 Somchai Homlaor and Pornpen Khongkachonkiet, as well as their organization, faced criminal defamation and computer-related crimes charges filed by Task Force Unit 41. The case was

eventually dropped by the decision of the public prosecutor in June 2015, following an international campaign denouncing the harassment and intimidation of these human right defenders for their legitimate and crucial human rights work.

From 13 to 15 June 2016, Somchai, Pornpen and Anchana received summons to present themselves to the police on 26 June 2016, but they all they postponed the meeting to 26 July 2016 because their lawyer had not had sufficient time to examine the case file. All three have affirmed that whether they are charged or not, the CrCF and Duayjai will continue to monitor and document cases of torture and ill treatment in Thailand.

Appendix: Human rights groups call for withdrawal of charges against three Thai human rights defenders

Joint statement prepared by Protection International

13 June 2016

We, the undersigned civil society groups, are gravely concerned about the legal action taken by the Royal Thai Army for criminal defamation and Computer Crimes Act violations against Woman Human Rights Defenders (WHRD) Ms. Pornpen Khongkachonkiet, Ms. Anchana Heemmina, and HRD Mr. Somchai Homlaor. Ms. Pornpen is the Director of the Cross Cultural Foundation – an organization which monitors and documents cases of torture and ill treatment in Thailand. Mr. Somchai is the President of the Cross Cultural Foundation, and Ms. Anchana is director of Duay Jai Group (Hearty Support Group) – a local organization based in Thailand’s ‘Deep South’, which supports people who suffer from the justice system in national security cases. All three are co-editors of a report, *Torture and ill treatment in The Deep South Documented in 2014-2015* documenting 54 cases of inhumane treatment in detention, launched on 10th February 2016. The research and report was partly funded by the United Nations Voluntary Fund for Victims of Torture, established under the General Assembly resolution 36/151 in 1981, thus under the United Nations (UN) Human Rights Council Resolution 12/2 these HRDs and their colleagues are “individuals who cooperate with the United Nations, its representatives and mechanisms in the field of Human Rights.”

On 8th June 2016, Internal Security Operations Command Region 4 (ISOC 4) gave information to Ms. Pornpen through a phone conversation that ISOC 4 sought the power of attorney from the Royal Thai Army and submitted a complaint to Yala Mueang Police Station on 17th May 2016 for criminal defamation and computer-related violations by the three HRDs. The charges are for alleged criminal defamation under Article 328 of the Thai Criminal Code, and violation of the Computer Crimes Act (2007), Article 14(1). We are disturbed regarding information that authorities have already interrogated six witnesses. The Police case file is No. 704/2559.

“We deem the Royal Thai Army’s action to be an unreasonable, arbitrary, and heavy-handed attempt to silence all complaints of allegations of torture against the authorities”
– Joint statement of civil society groups

This judicial action has been taken despite the Human Rights Defenders’ best efforts to engage authorities on the evidence of torture and ill treatment presented in the report. Namely, the report was sent to Army Lt Gen Wiwat Pathompak, Commander of the 4th Army Region, on 8th January 2016, one month before its publication. However, high-ranking military government officials have publicly dismissed the accuracy of the report and questioned the intentions of the civil society organisations who compiled the report. Furthermore, Ms. Anchana, WHRD working in Thailand’s ‘Deep South’, faced summons to an Army camp, lengthy questioning by Army officers, and close physical surveillance and intimidation by unidentified, uniformed men.

We deem this action by the Royal Thai Army to be a prompt reprisal against civil society groups seeking to bring to the authorities’ attention the continued abuse of power and ill treatment of detainees in Thailand. The Royal Thai Army has taken these actions at a time when it the Thai military government has renewed the Thailand’s international commitments to abolishing the use of torture. On 11th May 2016, at the United Nation’s Universal Periodic Review (UPR) of Thailand 12 UN member states issued recommendations directly relating to the prevention of torture and access to justice for survivors of torture. Furthermore, on 24th May 2016 the Thai military government issued a Cabinet Resolution stating that they will pass a Prevention of Torture and Enforced Disappearance Act. It is troubling that the Royal Thai Army has ordered the legal pursuit of HRDs who have been supporting victims of torture as well as pushing at many levels for policy reform and state action to prevent torture and provide justice to survivors.

We deem the Royal Thai Army’s action to be an unreasonable, arbitrary, and heavy-handed attempt to silence all complaints of allegations of torture against the authorities. By quashing Ms. Pornpen, Ms. Anchana, and Mr. Somchai’s efforts to support torture victims to publicly complain about Human Rights violations by authorities, the Royal Thai Army is seeking to make it more than impossible for torture victims to voice their complaints. Moreover, this is a deplorable act by the Royal Thai Army as it aims to further intimidate existing and potential victims of human rights violations to not report these violations. Instead of suppressing the work of Human Rights Defenders, such as Ms. Pornpen, Ms. Anchana, and Mr. Somchai, the Royal Thai Army should, as New Zealand recommended at the UPR, “Promptly investigate and prosecute all allegations of torture and extrajudicial killings,” and as Canada recommended, “Create an independent body to investigate all torture allegations, including in Thailand’s Deep South, and bring perpetrators to justice.”

This judicial harassment constitutes a direct infringement of Ms. Pornpen, Ms. Anchana, and Mr. Somchai’s right to work as a Human Rights Defender in Thailand. As stated in Article 1 of the UN Declaration on Human Rights Defenders “Everyone has

the right to (individually and in association with others) promote and to strive for the realization of Human Rights and fundamental freedoms at the national and international level.” We believe that the filing of this criminal legal case against Ms. Pornpen, Ms. Anchana, and Mr. Somchai was undertaken with the purpose of retaliation and that it is in response to the three HRDs peaceful and legitimate activities to hold authorities to account for cases of human rights violations, including torture, in Thailand’s ‘Deep South.’

We call on the Royal Thai Army to:

- Immediately and unconditionally withdraw the legal action against Ms. Pornpen, Ms. Anchana, and Mr. Somchai. Such legal action against the legitimate work of HRDs is against the public interest.
- Ensure that no further retaliation is carried out or allowed to happen in the future against HRDs, ill-treatment and torture victims, their colleagues and families.
- Ensure the implementations of recommendations it accepted during the recent UPR with regard to HRDs.

We call on the Thai military government to:

- Respect the universally recognized rights, duties and obligations of everyone and organizations to highlight information about Human Rights violations and injustices to the public, as stated in the UN Declaration on Human Rights Defenders;
- Ensure that all persons affected by torture and other human rights violations receive justice, including first and foremost the right to complain which must be respected at all times.

Signed by:

Organisations in Thailand

Aanglumphong Conservation Groups and Archaeological Site
 Assembly of the Poor
 Centre for Community Rights to Manage Natural Resources, Chi Basin
 Center to Study and Develop Law for Human Rights
 Centre to Study and Ecology Habitation of Community Culture in Phetchabun
 Chi Basin Network, Yasothon
 Community Resource Centre (CRC)
 Campaign Committee for Human Rights (CCHR)
 Empower Foundation
 E-saan Human Rights and Peace Information Centre
 E-saan Land Reform Network
 E-saan Network on Natural Resources and Environment
 Foundation for Muslim Attorneys Center
 Foundation for Women
 Gender equality promoting foundation
 Human Rights Lawyers’ Association (HRLA)
 Land Watch Working Group
 Mplus Foundation

“We call on the Royal Thai Army to immediately and unconditionally withdraw the legal action against Ms. Pornpen, Ms. Anchana, and Mr. Somchai”

– Joint statement of civil society groups

Namoon Environmental Conservation Group
 Network of Indigenous Peoples in Thailand (NIPT)
 Network of Thaiban People Deprived of Rights
 People's Empowerment Foundation
 Prorights Foundation
 Southern Peasant Federation of Thailand (SPFT)
 Saiburi River Association
 Thai Committee for Refugees Foundation (TCR)
 Thai Development Support Center (TDSC)
 Thai Working Group for ASEAN Human Rights Mechanism
 Togetherness for Equality and Action (TEA)
 Udonthani Environmental Conservation Group
 Union for Civil liberty (UCL)
 WARTANI Media Agency
 WE PEACE
 Women Struggle for Livelihood
 WeMove
 Women Network for Advancement and Peace
 Work and Environment Related Patient's Network of Thailand
 (WEPT)

Beyond Thailand

Association of Human Rights Defenders and Promoters (HRDP,
 Myanmar)
 Center for Women's Global Leadership (USA)
 Malaysians Against Death Penalty and Torture (MADPET)
 Malaysian Humanist and Rationalist Movement (MyHARAM)
 National Free Trade Union (Sri Lanka)
 North South Initiative (Malaysia)
 PINAY (Filipino Women's Organization in Quebec)
 PUSAT KOMAS (Malaysia)
 Safety and Rights Society (Bangladesh)
 The Vietnam Committee on Human Rights (France)
 Think Centre (Singapore)
 Vietnam Indigenous Knowledge Network (VTIK)
 Workers Hub For Change (WH4C, Malaysia)

Regional/International

Amnesty International
 ASEAN Youth Forum
 Asia Indigenous Peoples Pact (AIPP)
 Asia Pacific Forum on Women, Law and Development (APWLD)
 AWID
 Center for Sustainable Development in Mountainous Areas
 (CSDM, Vietnam)
 Civil Rights Defenders
 Focus on the Global South
 International Labor Rights Forum (ILRF)
 The Asian Forum for Human Rights and Development (FORUM-
 ASIA)
 FIDH, within the framework of the Observatory for the Protection
 of Human Rights Defenders
 Migrant Forum in Asia (MFA)

Nazra for Feminist Studies
Network of Patani's Citizens Outside the Motherland
Protection International
Southeast Asian Press Alliance (SEAPA)
UPR Info Asia
Urgent Action Fund for Women's Human Rights
Urgent Action Fund Latin America
Women Living Under Muslim Laws
World Organisation Against Torture (OMCT), within the framework
of the Observatory for the Protection of Human Rights
Defenders

Human Rights Watch

(New York, 6 June 2016) – The Thai military should immediately withdraw its criminal complaints against three human rights defenders for reporting alleged torture by government security forces in southern Thailand, Human Rights Watch said today.

The military's actions pose a serious threat to all human rights monitoring and reporting in Thailand at a time when rights abuses are widespread in the country, Human Rights Watch said.

"The Thai military is targeting human rights activists for reporting grave abuses and standing up for victims," said Brad Adams, Asia director at Human Rights Watch. "The government should order these criminal complaints withdrawn and do what it should have done in the first place: seriously investigate the report's allegations of torture."

It was recently reported that on May 17, 2016, the military's Internal Security Operations Command (ISOC) Region 4 – which covers national security operations in the provinces along the southern border – filed a criminal complaint in Yala against prominent human rights activists Somchai Homlaor, Pornpen Khongkachonkie, and Anchana Heemmina. The complaint accuses the three of criminal defamation under the Penal Code and publicizing false information online under the Computer Crimes Act.

The complaint makes reference to the February report by the Cross Cultural Foundation, Duay Jai Group, and the Patani Human Rights Network that documents 54 cases in which Thai security personnel allegedly tortured and otherwise ill-treated ethnic Malay Muslim insurgent suspects between 2004 and 2015. If charged and convicted, the activists face up to five years in prison or a 100,000 baht (US\$2,850) fine.

Thai authorities have an obligation to ensure that all people and organizations engaged in the protection and promotion of human rights are able to work in a safe and enabling environment, Human Rights Watch said. The right to file complaints about torture and mistreatment and to have the complaint promptly and impartially

“The government should order these criminal complaints withdrawn and do what it should have done in the first place: seriously investigate the report's allegations of torture”

– Brad Adams

“The Thai military has a longstanding practice of dismissing allegations of torture and other serious abuses committed by security personnel in the southern border provinces”
– Human Rights Watch

investigated is ensured under international treaties to which Thailand is party, including the Convention against Torture and the International Covenant on Civil and Political Rights. In addition, the United Nations Declaration on Human Rights Defenders affirms the prohibition against retaliation, threats, and harassment of anyone who takes peaceful action against human rights violations, both within and beyond the exercise of their professional duties.

The Thai military has a longstanding practice of dismissing allegations of torture and other serious abuses committed by security personnel in the southern border provinces, Human Rights Watch said. Thai authorities have also frequently retaliated against reporting of alleged rights abuses by filing lawsuits accusing critics of making false statements with the intent of damaging their reputation.

The military’s attempted use of a criminal complaint to retaliate against human rights defenders is contrary to Prime Minister Gen. Prayut Chan-ocha’s recent promise to criminalize torture and fulfill Thailand’s international obligations against the practice, Human Rights Watch said.

Torture and other cruel, inhuman, or degrading treatment or punishment are prohibited under international treaties and customary international law. The Convention against Torture, which Thailand ratified in 2007, obligates governments to investigate and prosecute acts of torture and other ill-treatment committed by government officials. However, the Thai government has yet to prosecute successfully any security personnel for abuses against ethnic Malay Muslims alleged to be involved in the insurgency.

In June 2014, the UN Committee Against Torture recommended Thailand “should take all the necessary measures to: (a) put an immediate halt to harassment and attacks against human rights defenders, journalists, and community leaders; and (b) systematically investigate all reported instances of intimidation, harassment and attacks with a view to prosecuting and punishing perpetrators, and guarantee effective remedies to victims and their families.”

Separatist insurgents in southern Thailand called the Patani Freedom Fighters (Pejuang Kemerdekaan Patani,) part of the loose network of BRN-Coordinate (Barisan Revolusi Nasional, or National Revolution Front-Coordinate), continue to maintain a presence in hundreds of villages despite significant setbacks in recent years. The insurgents use state-sponsored abuses and heavy-handed counterinsurgency tactics to recruit new members and justify their campaign of violence and terror, which has claimed more than 6,000 lives since fighting erupted in January 2004.

“Atrocities by separatist insurgents provide no justification for abuses by Thai security forces,” Adams said. “Covering up torture and other crimes by targeting human rights activists only undermines efforts to improve the security situation in the deep south.”

Lawyers Rights Watch – Canada

13 June 2016

General Prayut Chan-o-cha
Prime Minister and Director of Internal Security Operations
Command (ISOC)
Ruen Ruedi Palace, Nakhon Ratchasima Rd.
Dusit District, Bangkok, Thailand
Fax: +66 2 282 5131
Email: prforeign@gmail.com

General Prawit Wongsuwan
Defense Minister and Vice-Chairman of Internal Security
Operations Command (ISOC)
RuenRuedi Palace, NakhonRatchasima Rd.
Dusit District, Bangkok, Thailand

General Anupong Paochinda
Minister of Interior
Asatang Road, Ratchabophit, Bangkok 10200, Thailand

General Udomdet Sitabut
Secretary General of Internal Security Operations Command
(ISOC)
RuenRuedi Palace, Nakhon Ratchasima Rd.
Dusit District, Bangkok, Thailand

General Theerachai Nakvanich
Commander in Chief, Royal Thai Army
Deputy-Director of Internal Security Operations Command (ISOC)
Ruen Ruedi Palace, Nakhon Ratchasima Rd.
Dusit District, Bangkok, Thailand
Email: informdepart@gmail.com

Dear Prime Minister, Minister and Generals,

Re: Reprisals against human rights defenders, Mr. Somchai Homlaor, Ms. Pornpen Khongkachonkiet, and Ms. Anchana Heemmina

I am writing on behalf of Lawyers’ Rights Watch Canada (LRWC), a committee of lawyers and other human rights defenders who promote human rights and the rule of law through advocacy, education and research. LRWC advocates for human rights defenders threatened as a result of their human rights work. LRWC is an NGO in Special Consultative Status with the Economic and Social Council (ECOSOC) of the United Nations (UN).

“Covering up
torture and other
crimes by targeting
human rights
activists only
undermines efforts to
improve the security
situation in the deep
south”

– Brad Adams

“Thailand is obligated to ensure that all people and organizations engaged in the protection and promotion of human rights are able to work in a safe and enabling environment, without fear of reprisals or judicial harassment”
– Gail Davidson

LRWC is seriously concerned about reports that on 17 May 2016, Thailand’s Internal Security Operations Command (ISOC) Region 4 filed a criminal complaint in Yala against three human rights defenders: Mr. Somchai Homlaor, lawyer, Commissioner of the Law Reform Commission of Thailand and President of the Cross Cultural Foundation; Ms. Pornpen Khongkachonkiet, Director of the Cross Cultural Foundation; and Ms. Anchana Heemmina, President of Duay Jai Group (Hearty Support Group), a human rights organization based in Thailand’s Deep South region. The criminal complaint accuses these three human rights defenders of criminal defamation under the *Criminal Code* and spreading false information under the *Computer Crimes Act*. The charges are based on and were laid after the release of *Torture and ill treatment in the Deep South Documented in 2014-2015*, a report co-edited by the three. The report documents 54 cases in which Thai security personnel allegedly tortured and ill-treated ethnic Malay Muslim insurgent suspects in Thailand’s Deep South between 2014 and 2015.

As production of the report received funding from the UN Voluntary Fund for Victims of Torture, the three human rights defenders are considered “individuals who cooperate with the United Nations, its representatives and mechanisms in the field of Human Rights.” As a member of the United Nations, Thailand is obligated to “prevent and refrain from all acts of intimidation or reprisal” against such persons.

Thailand is obligated to ensure that all people and organizations engaged in the protection and promotion of human rights are able to work in a safe and enabling environment, without fear of reprisals or judicial harassment. The right to file complaints about torture and mistreatment and to have the complaint promptly and impartially investigated is ensured under international treaties to which Thailand is party, including the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, which Thailand ratified in 2007, and the *International Covenant on Civil and Political Rights*. In addition, the UN *Declaration on Human Rights Defenders* adopted by consensus by the General Assembly of the UN on December 9, 1998, especially Article 12.2, provides that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

Thailand’s responses to the May 2016 Universal Periodic Review (UPR) by the UN Human Rights Council have signalled a commitment to protect human rights defenders. Specifically, Thailand formally accepted the recommendations from Member States to stop all forms of harassment and intimidation of human rights defenders, to ensure the internationally protected

rights of human rights defenders are properly respected, and to protect human rights defenders in accordance with the *UN Declaration on Human Rights Defenders*. Thailand also accepted the recommendation to ratify the *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2006*, ensure that all laws are brought into conformity with the treaty, and adopt a definition of torture as a specific offence in Thai legislation. In addition, Thailand's delegation at its UPR in May 2016 advised that the Ministry of Justice Rights and Liberties Protection Department has established a working group to develop measures to protect human rights defenders whose human rights are at risk of being violated.

“Thailand must repeal or revise its vague and broad criminal defamation laws to prevent them from being used to silence human rights defenders”

– Wilder Tayler

LRWC calls upon the Government of Thailand to:

Ensure that the criminal complaints under the *Criminal Code* and the *Computer Crimes Act* against Mr. Somchai Homlaor, Ms. Pornpen Khongkachonkiet, and Ms. Anchana Heemmina are immediately and unconditionally withdrawn; and, prevent and refrain from any further reprisals against Mr. Somchai Homlaor, Ms. Pornpen Khongkachonkiet, and Ms. Anchana Heemmina for work related to the production of *Torture and ill treatment in The Deep South Documented in 2014-2015*; cooperation with the UN, its representatives and mechanisms in the field of human rights; and, peaceful human rights advocacy.

We look forward to your urgent response.

Sincerely,
Gail Davidson
Executive Director, LRWC

International Commission of Jurists

27 July 2016

Thailand's government should immediately stop allowing criminal defamation laws to be used to harass victims and human rights defenders who seek justice for alleged incidents of torture, the ICJ said today.

Yesterday, the government charged three human rights defenders (Pornpen Khongkachonkiet, Somchai Homloar and Anchana Heemmina, photo) under the criminal defamation provisions of the Penal Code and the Computer Crime Act, for publication of a report that documented 54 cases of alleged torture and other ill-treatment by the Thai authorities in the country's restive deep South since 2004.

“Thailand must repeal or revise its vague and broad criminal defamation laws to prevent them from being used to silence human rights defenders and journalists working on important

public interest issues,” said Wilder Tayler, the ICJ’s Secretary General.

**“Thai authorities have an obligation to investigate and ensure justice for incidents of torture, but instead they are harassing and intimidating those responsible for exposing these horrendous acts”
– Wilder Tayler**

“The imposition of harsh penalties such as imprisonment or large fines under these laws has a chilling effect on the exercise of freedom of expression – a right which is enshrined in treaties to which Thailand is a party and bound to uphold,” he added.

Also yesterday, the government used the same provisions to charge Naritsarawan Kaewnopparat, the niece of an army conscript who was killed after being severely punished by soldiers on a military base.

Although the Thai government has formally acknowledged that the death was caused by torture and compensated the family, none of the perpetrators have been held accountable for the death of Private Wichian Puaksom and have only faced military disciplinary sanctions of 30 days of detention or less, the ICJ reminds.

The case against Ms Kaewnopparat was brought by a military officer who alleges she accused him of being involved in her uncle’s death in the context of the family’s efforts to seek justice.

Last month, Thailand informed the Human Rights Council during its Universal Periodic Review that the Cabinet was considering a draft Act on Prevention and Suppression of Torture and Enforced Disappearance.

It was reported that the Cabinet approved the draft law on 24 May 2016 and would forward it for approval to the National Legislative Assembly.

At the conclusion of the review, Thailand also adopted several recommendations to protect human rights defenders and investigate reported cases of intimidation, harassment and attacks against them.

“Prosecuting people who seek justice for alleged torture goes against the spirit of the proposed legislation,” Tayler said.

“Thai authorities have an obligation to investigate and ensure justice for incidents of torture, but instead they are harassing and intimidating those responsible for exposing these horrendous acts.”

On 17 December 2015, Thailand joined 127 other states at the UN General Assembly in adopting a UN Resolution on human rights defenders.

The Resolution calls upon states to refrain from intimidation or reprisals against human rights defenders.

"COMICS FOR HUMAN RIGHTS" PRESENTS...

DOCUMENTING TORTURE IN THAILAND

A CONVERSATION WITH PORNPEN
KHONGKACHONKIET



PORNPEN KHONGKACHONKIET OR "NOINOI" AS SHE IS AFFECTIONATELY KNOWN WAS ALREADY AT THE CAFE WHEN I ARRIVED. SHE WAS ENJOYING A CROISSANT, HER FAVORITE FRENCH PASTRY. "THEY DON'T MAKE IT THIS WAY IN BANGKOK", SHE COMPLAINED AS I SAT BESIDE HER.

I KNOW NOINOI THROUGH OUR COOPERATION IN THAILAND. SHE IS THE DIRECTOR OF CROSS CULTURAL FOUNDATION, AN NGO THAT PROMOTES AND PROTECTS TORTURE VICTIMS AND THEIR FAMILIES...ESPECIALLY IN THE DEEP SOUTH.



NOINOI WAS IN GENEVA TO ADVOCATE FOR HER CASE. EARLIER THIS YEAR, SHE AND ANOTHER TWO HUMAN RIGHTS ADVOCATES FACED THE WRATH OF THE MILITARY FOR A HUMAN RIGHTS REPORT THEY PRODUCED. AS A FELLOW NGO AND FRIEND, I WANT TO KNOW BETTER WHY DOCUMENTING AND RELEASING THAT REPORT IS SO IMPORTANT TO HER.

1 OF 9

TELL ME MORE ABOUT THE REPORT, I INSISTED. HONESTLY, I HAVE READ THE REPORT BEFORE WE MET. BUT I WANT TO HEAR MORE FROM NOINOI.



THIS REPORT REPRESENTS THE CULMINATION OF TORTURE CASES SINCE 2004. THERE IS A RISE OF SUCH INCIDENTS IN PLACES OF DETENTION CONTROLLED BY THE MILITARY ESPECIALLY POST-2014 COUP.

WE WANT TO SHOW THE GOVERNMENT THE WORRYING INCREASE OF TORTURE ALLEGATIONS. UNFORTUNATELY, THE GOVERNMENT DOES NOT WELCOME THE REPORT.



I SPOKE TO MYSELF, "OF COURSE THE MILITARY GOVERNMENT IS NOT KEEN WITH THE REPORT. THE LAST THING THEY NEED AT THE MOMENT IS MORE ALLEGATIONS OF MISCONDUCT AGAINST THEIR OFFICIALS..."

NOINOI CONTINUED HER STORY....



IN 2004, SOMCHAI NEELAPHAJIT A HUMAN RIGHTS LAWYER DISAPPEARED FOR DEFENDING 3 INSURGENT SUSPECTS IN PATANI. HIS CASE REMINDED US OF THE NEED TO DOCUMENT ENFORCED DISAPPEARANCE OR TORTURE AND ILL-TREATMENT CASES IN THAILAND. THIS IS CRUCIAL FOR US TO BRING THE PERPETRATORS TO JUSTICE.

"THERE ARE OTHERS AFTER NEELAPHAJIT. ORDINARY PEOPLE ON THE STREET...STILL NO ACTION FROM THE GOVERNMENT. SO WE STARTED OUR DOCUMENTATION..."



2 OF 9



"....AS A RESULT, "TORTURE AND ILL-TREATMENT IN THE DEEP SOUTH IN 2014-2015" WAS DRAFTED. THE 120-PAGE REPORT DETAILED 54 ALLEGATIONS OF TORTURE IN YALA, PATANI AND NARATHIWAT PROVINCES. TO PROTECT VICTIMS FROM REPRISALS, WE CONCEALED THEIR IDENTITIES IN THE REPORT"



"OUR WORK WAS GENEROUSLY SUPPORTED BY THE UNITED NATIONS FUND FOR TORTURE VICTIMS (UNFTV)...."

WOULDN'T IT BE BETTER TO LET THE AUTHORITIES KNOW THE IDENTITY OF THE VICTIMS? MAYBE THAT WAY THE ALLEGATIONS WOULD HAVE MORE WEIGHT? MORE CREDIBLE?

IF THE GOVERNMENT COULD GUARANTEE AN INDEPENDENT TRIBUNAL IS SET UP TO INVESTIGATE THE CASES, MAYBE WE COULD BE MORE OPEN ABOUT THE VICTIMS' IDENTITIES. BUT WE GENUINELY FEAR FOR THE VICTIMS' SAFETY.

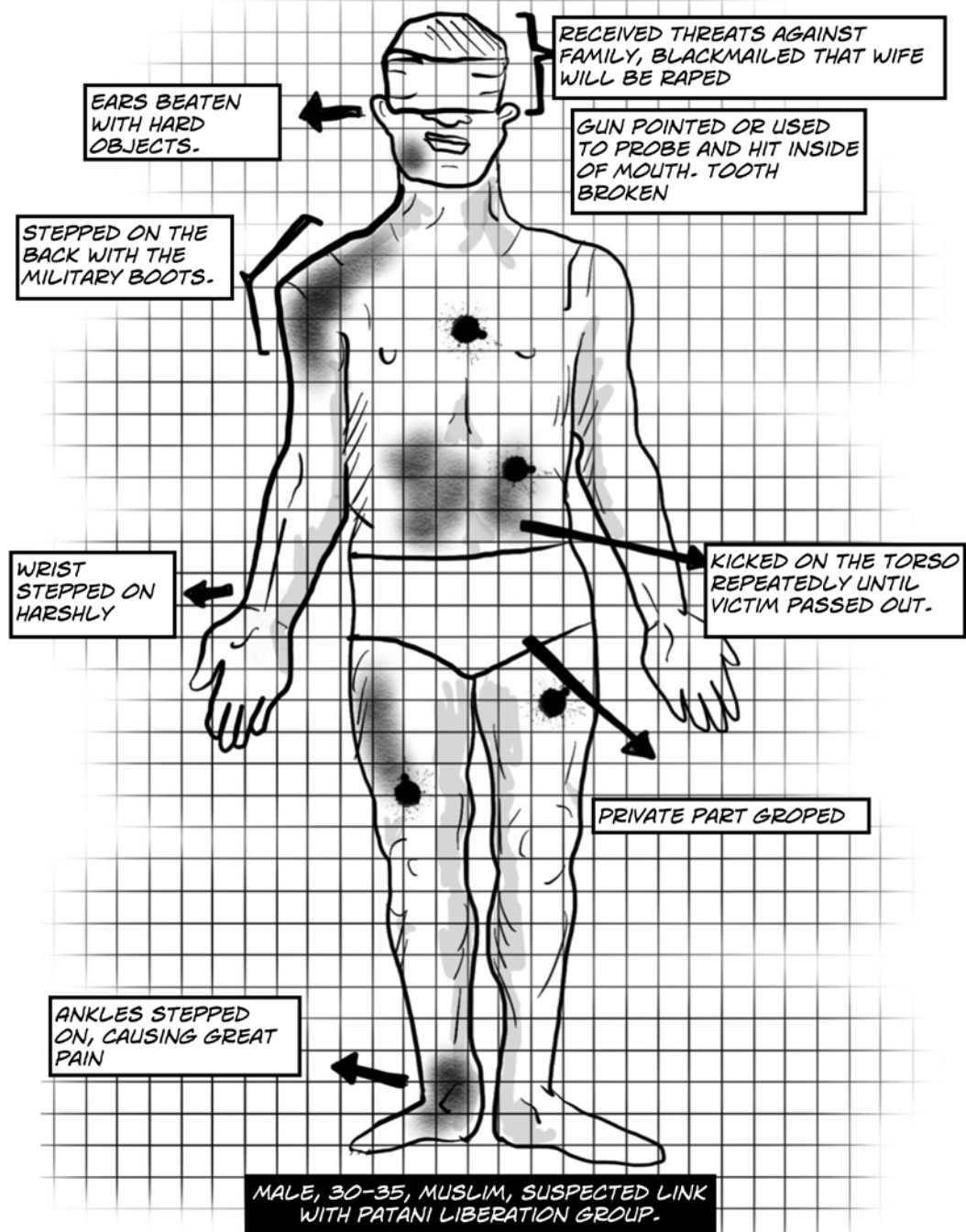


TO DATE, THE MILITARY CLAIMED THAT 36 OUT OF THE 54 ALLEGATIONS OF TORTURE DOCUMENTED IN THE REPORT ARE BASED ON OUR BIAS TOWARDS THE MILITARY. THE INJURIES SUFFERED BY COMPLAINANTS WERE SUSTAINED THROUGH MERE "ACCIDENTS".



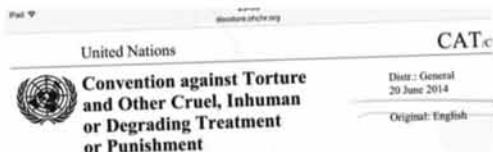
"APPARENTLY THE REPORT IS A PRODUCT OF OUR "IMAGINATION" TO DISCREDIT THE THAI MILITARY.." NOINOI ADDED.

HAVING READ THE REPORT, I THOUGHT THE ALLEGATIONS DOCUMENTED EXPOSES ABUSE OF POWER BY THE SECURITY FORCES. THE EXPLICIT DETAILS OF HOW EACH VICTIM WAS ILL-TREATED DESERVES A PROPER INVESTIGATION AND COULD NOT BE SIMPLY DISMISSED AS MERE "ACCIDENTS".



4 OF 9

THE REPORT WAS ALSO REITERATING WHAT THE UNITED NATIONS' COMMITTEE ON TORTURE AND ILL-TREATMENT RECOMMENDED TO THAILAND IN 2014.



Committee against Torture

Concluding observations on the initial report of Thailand

1. The Committee against Torture considered the initial report of Thailand (CAT/C/THA/1) at its 1214th and 1217th meetings (CAT/C/SR.1214 and 1217), held on 30 April and 1 May 2014, and adopted the following concluding observations at its 1239th meeting (CAT/C/SR.1239), held on 16 May 2014.

A. Introduction

2. The Committee welcomes the submission of the initial report of Thailand (CAT/C/THA/1) and the common core document (HRI/CORE/THA/2012). However, it regrets that the report was submitted with a delay of five years, which prevented it from monitoring the implementation of the Convention in the State party during that time. The Committee also notes that while the report generally follows the guidelines on the form and content of initial reports (CAT/C/4/Rev.3), statistical information on the implementation of the Convention in the State party is lacking.

3. The Committee appreciates the open and constructive dialogue with the high-level delegation of the State party and the additional information provided by the delegation.

4. The Committee is deeply concerned at the declaration of martial law throughout Thailand, since its recent dialogue with the State party. It emphasizes that the State party should adhere strictly to the absolute prohibition of torture and ensure that the application of martial law does not, under any circumstances, contradict the rights guaranteed in the Convention. In that regard, the Committee draws the State party's attention to paragraphs 11 and 12 of the present concluding observations, which deal with the state of emergency in the southern border provinces as well as the three special laws currently in effect in Thailand. The Committee urges the State party to ensure that the application of martial law throughout Thailand does not, under any circumstances, contradict the rights guaranteed in

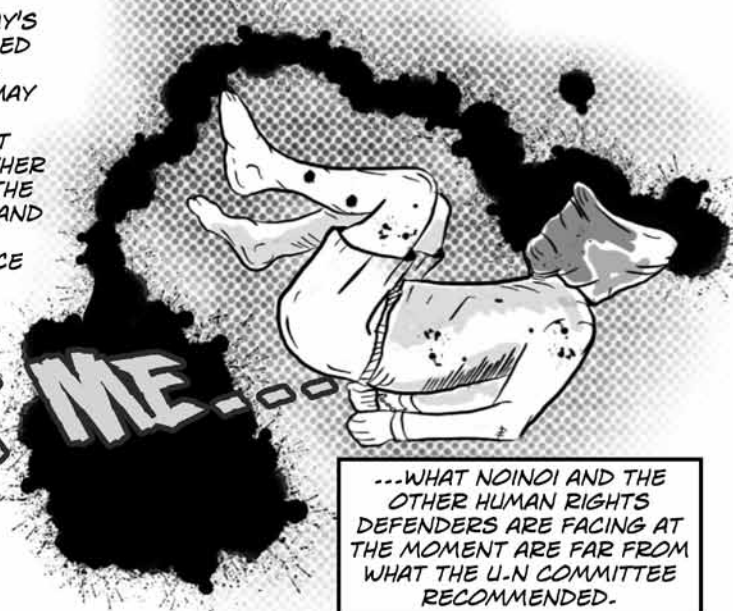
AS A STATE PARTY TO THE CONVENTION AGAINST TORTURE...



THAILAND SHOULD CRIMINALIZE TORTURE AND INVESTIGATE ALLEGATIONS OF TORTURE PROMPTLY AND INDEPENDENTLY.

HOWEVER TODAY'S REALITY SHOWED OTHERWISE. ALTHOUGH IN MAY 2016, THE GOVERNMENT APPROVED FURTHER ADOPTION OF THE ANTI-TORTURE AND ENFORCED DISAPPEARANCE BILL....

HELP ME...

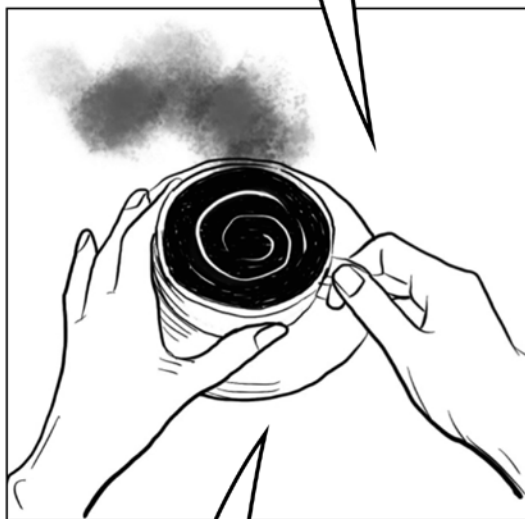


...WHAT NOINOI AND THE OTHER HUMAN RIGHTS DEFENDERS ARE FACING AT THE MOMENT ARE FAR FROM WHAT THE U-N COMMITTEE RECOMMENDED.

ON THE POSITIVE SIDE, THE DOCUMENTATION OF THE REPORT LEFT A MEANINGFUL IMPACT ON THOSE INVOLVED. TO NOINOI, IT WAS A VERY EMPOWERING EXPERIENCE...



THE REPORT BECAME A CATALYST FOR US TO IMPROVE OUR SKILLS IN DOCUMENTING TORTURE CASES...LIKE APPLYING THE ISTANBUL PROTOCOL IN OUR WORK.



BY CONDUCTING OUR INTERVIEWS AND EVIDENCE GATHERING IN THE RIGHT WAY, IT ENHANCED THE REPORT'S CREDIBILITY. WE THOUGHT WITH A QUALITY DOCUMENTATION, THE AUTHORITIES WILL NOT SIMPLY DISMISS THE WEIGHT OF THE REPORT. BUT OF COURSE WE WERE ABSOLUTELY WRONG.

6 OF 9

SAD TO SAY, THE THREE HUMAN RIGHTS DEFENDERS WERE CHARGED FOR DEFAMATION AND ACCUSED OF INFRINGING THE COMPUTER CRIME ACT. IF FOUND GUILTY, THEY COULD BE IMPRISONED FOR UP TO SEVEN YEARS.



INSTEAD OF INVESTIGATING THE CASES WE DOCUMENTED AND BRINGING THE PERPETRATORS TO JUSTICE, WE ARE TREATED LIKE CRIMINALS!



FOR NOINOI THIS IS THE SECOND TIME SHE WAS CHARGED WITH DEFAMATION BY THE MILITARY. THE FIRST TIME WAS IN 2014. DUE TO PRESSURE FROM LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS, THE CHARGES WERE DROPPED AGAINST HER.

AS THE REPORT GAINED MORE ATTENTION, THE MILITARY WENT TO THE MEDIA TO DEBUNK THE TORTURE ALLEGATIONS. IN A NEWS REPORTED BY THE BANGKOK POST, THE SPOKESMAN FOR THE MILITARY DISMISSED THE CLAIMS THAT TORTURE HAPPENED IN THE SOUTHERN PROVINCES. TO NOINOI, IT WAS TO BE EXPECTED.

(PHOTO INSPIRED BY THE FILE PHOTO OF BANGKOK POST)



THE ALLEGATIONS OF TORTURE IS UNFOUNDED. A WORK OF FICTION!

7 OF 9

AS THAILAND CAME UNDER INTERNATIONAL SPOTLIGHT, NOINOI AND HER FELLOW COMRADES RECEIVE MORE AND MORE SUPPORT FROM OTHERS. THE MESSAGE IS CLEAR-HUMAN RIGHTS DEFENDERS SHOULD BE ALLOWED TO DO THEIR WORK IN A SAFE ENVIRONMENT. FREE FROM INTIMIDATION OR HARASSMENT, ESPECIALLY BY THE GOVERNMENT.

OMCT
SOS-Torture Network

 **AMNESTY**
INTERNATIONAL

FORUM-ASIA

 **icj**

f **DEFENDERS**

HUMAN
RIGHTS
WATCH

fidh
International Federation
for Human Rights

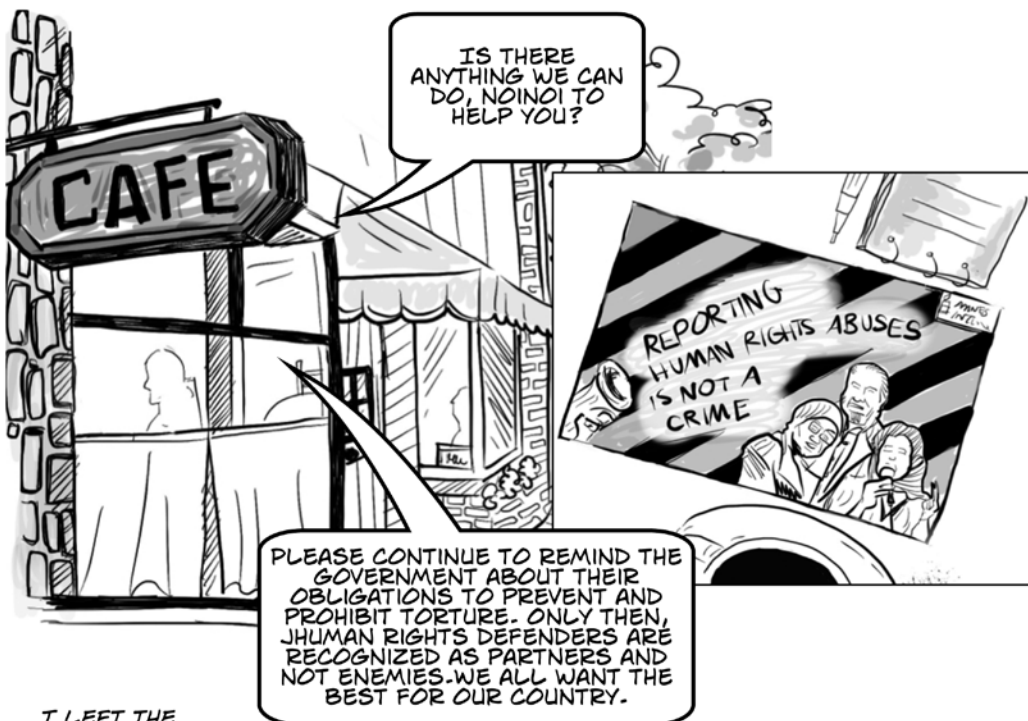
THE THAI AUTHORITIES SHOULD IMMEDIATELY STOP THE CRIMINAL INVESTIGATION, DROP THE CHARGES AGAINST THESE THREE ACTIVISTS AND ORDER AN INDEPENDENT AND IMPARTIAL INVESTIGATION INTO THE VERY SERIOUS HUMAN RIGHTS VIOLATIONS THEY HAVE RAISED. IT IS THE STATE'S DUTY TO PROTECT HUMAN RIGHTS ACTIVISTS, NOT TO SHIELD SECURITY FORCES FROM ACCOUNTABILITY.



SALIL SHETTY,
SECRETARY
GENERAL OF
AMNESTY
INTERNATIONAL

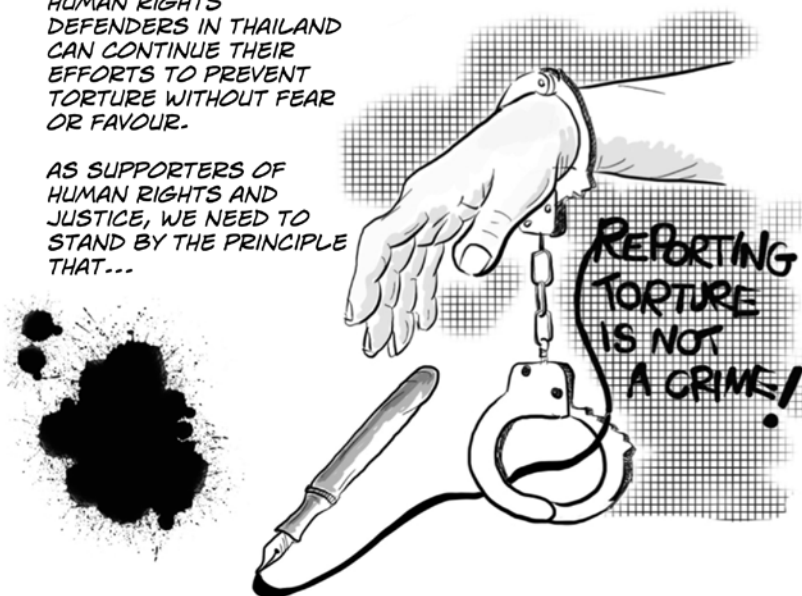
8 OF 9

SO, WHAT NOW? I ASKED NOINOI AS WE GOT READY TO LEAVE THE CAFE. WHAT WILL HAPPEN TO NOINOI, SOMCHAI AND ANCHAANA. WHAT WILL HAPPEN TO THE 54 VICTIMS? BOTH OF US SIGHED. WE DON'T REALLY KNOW...



I LEFT THE CONVERSATION, HOPING THAT NOINOI AND OTHER HUMAN RIGHTS DEFENDERS IN THAILAND CAN CONTINUE THEIR EFFORTS TO PREVENT TORTURE WITHOUT FEAR OR FAVOUR.

AS SUPPORTERS OF HUMAN RIGHTS AND JUSTICE, WE NEED TO STAND BY THE PRINCIPLE THAT---



**THE END
OR MAYBE NOT...**

9 OF 9

Thailand: Survivors of torture denied justice by military dictatorship

Asian Legal Resource Centre

A concluding comment to this special issue of article 2 on 'Torture in Thailand's deep south' by staff of the Asian Legal Resource Centre, Hong Kong.

Thailand is a constitutional monarchy. The king serves as head of state and has traditionally exerted political influence. In May 2014, military and police leaders, taking the name of the National Council for Peace and Order (NCPO) led by **General Prayuth Chan-o-cha** overthrew the interim government led by the Pheu Thai political party, which had governed since 2011, following elections that were considered free and fair.

The NCPO has maintained control over the security forces and all government institutions since the coup. Furthermore, it declared martial law, issued a series of executive orders and announcements, and imposed **article 44 of the Constitution of the Kingdom of Thailand (Interim) B.E.2557 (2014)**. According to that article, General Prayuth Chan-ocha, as the junta leader and Prime Minister, has absolute power to give any order deemed necessary to “strengthen public unity and harmony” or to prevent any act that undermines public peace.

Article 44 affects civilian law enforcement directly, due to the fact that even though martial law was revoked on 1 April 2015, it was replaced by **NCPO Order No. 3/ 2015**, which was issued under the authority of article 44. In practice, the effect is no different from martial law as the order permits the boundless exercise of power and also inserts military officials into the judicial process and provides them with the authority to carry out investigations along with the police. In addition, the order gives authority to military officials to detain individuals for up to seven days. During this seven-day period of detention, detainees do not have the right to meet with a lawyer or contact their relatives and the military officials further refuse to make the locations of places of detention public.

Although the NCPO lifted martial law, they replaced it with their orders, announcements and the Interim Constitution, which are all harsher than martial law. This means that they have still left the door wide open to serious violations of

fundamental human rights. Representatives of non-government organizations have since reported that police and military officers have tortured and beaten suspects to obtain confessions, and the newspapers have reported cases of citizens accusing police and other security officers of brutality.

According to Thai Lawyers for Human Rights (TLHR), since the 2014 coup, it has documented the severe torture of nineteen persons whom its lawyers are representing. They all complained about alleged torture that took place during the seven days of custody under martial law or the NCPO Order No. 3/2558, during which they did not have access to the outside world. Therefore, the allegations of torture could not be examined at the time. It is unlikely that the complaints will lead to any independent or impartial investigations.

Moreover, the reports of human rights violations under the special law in the southernmost provinces of Thailand have shown that security officers continue to use torture in the process of arrest and detention to obtain the suspect's confession and elicit information. Thus, in 2015 alone **the Muslim Attorney Centre foundation received 33 complaints from survivors, most of who had suffered from physical and mental abuse, yet the detail of torture was not recorded in the medical reports on their cases.**

Not only has the military failed to act to stop cases of torture but it has also harassed human rights defenders due to them being co-editors of a report detailing torture practiced by the Thai army, police and paramilitary groups (contained in this special issue of *article 2*, 'Torture in Thailand's deep south').

Since the launch of the report on 10 February 2016, the Thai army has been threatening the three editors and the human rights groups involved in the documentation of torture. For example, on February 11, army spokesperson Major General Banpot Poonpien, accused the groups of fabricating accounts of torture to obtain funding from abroad. He also asked whether or not the groups had the mandate to investigate the work of state officers, threatening them with criminal defamation.

On 26 June 2016, three human rights defenders were accused of criminal defamation and violation of the Computer Crimes Act for publishing the report detailing 54 cases of torture in the country's southern provinces. The three are Pornpen Khongkachonkiet, director of the Cross Cultural Foundation (CrCF), Somchai Homlaor, president of the CrCF, and Anchana Heemmina, president of Duayjai group. (For further details see the preceding article in this special issue of *article 2*, 'Human rights defenders under attack in Thailand, again').

The prosecution is just the latest illustration of how Thailand is both politically and from a human rights perspective in a state of serious decline from which it will not easily recover. Nevertheless, the Asian Legal Resource Centre stands resolutely with these human rights defenders and declares, along with their supporters around the world, that contrary to whatever military dictators and their agents may think, reporting on human rights violations is not a crime!

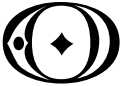
“ Although the NCPO lifted martial law, they replaced it with their orders, announcements and the Interim Constitution, which are all harsher than martial law ”

Appendix: The force of the gun camouflaged as law—Two years of rule by the NCPO

Thai Lawyers for Human Rights

This appendix to the special issue of article 2 on “Torture in Thailand’s deep south” contains the full text of a report (excluding citations and hyperlinks) by Thai Lawyers for Human Rights, “The Force of the Gun Camouflaged as Law and a Justice System: Two Years of Rule by the NCPO and the Eighty-fourth Anniversary of the Transformation from Absolute to Constitutional Monarchy”, issued on 2 August 2016 to mark two years of military rule since the 2014 coup. The editors include it so as to contextualize the violence and militarization of the far south in the more generally deteriorating situation for human rights and the rule of law in Thailand. For further details and updates, visit <https://tlhr2014.wordpress.com/>

Introduction

 On 24 June 1932, the People’s Party seized power and launched a transformation from absolute monarchy to a democratic regime in Siam. They made the significant announcement that sovereignty belonged to the people and enumerated six principles that highlighted the importance of rights, liberties, and equality. The seizure of power by the National Council for Peace and Order (NCPO) on 22 May 2014 was completely different. The NCPO seized sovereignty from the people and took complete control of legislative, administrative and judicial power. By stipulating in the 2014 Interim Constitution that they were exempt from any and all responsibility, the NCPO proclaimed themselves as the sovereign, or as the holder of sovereignty, the supreme power in the country. This is a sovereignty which has no basis in the people. The NCPO has further established a power structure which is closed to refutation or opposition by the people, and even denies people the right to receive reparations for the exercise of state power. The courts have even acknowledged and accepted the authority of this sovereignty across many cases. In sum, the people have been fully dispossessed of their sovereignty

and their rights and liberties during the past two years of rule by the NCPO.

This is the case even though the NCPO promulgated an Interim Constitution in July 2014 to provide the appearance of the rule of law and to indicate that the country had returned to be governed by a legal system. But upon examination of the legal system under the NCPO, it is clear that the content of that system is very far from the rule of law. The NCPO cited their sovereign power to construct an Interim Constitution and promulgate hundreds of NCPO Orders and Announcements to control the country. Between the coup in 2014 until 19 June 2016, the junta issued 198 NCPO Orders, 123 NCPO Announcements, and 76 Head of the NCPO Orders which apply and are enforced across all aspects of rule in the country. The legislative branch, or the organization which promulgates laws, was appointed by the NCPO, as the Head of the NCPO serves as the head of the executive branch. One of the NCPO Announcements placed certain categories of legal cases within the jurisdiction of the military court, which constitutes interference with the judicial branch. With this in mind, it can be said that power in all respects is in the hands of the NCPO. The important question then becomes, when the people are dispossessed of their sovereignty, how does the NCPO exercise power as a regime? The answer to this question provides an explanation as to how the junta has been able to retain executive power for the past two years.

By entering power by fomenting a coup, the NCPO generated a problem of political legitimacy for itself; in other words, the NCPO exercises state power without any democratic legitimacy. The arbitrary exercise of power in violation of human rights will inevitably aggravate disapproval of the regime at the international level and may even increase the level of this disapproval within the country.

The human rights situation began to decline immediately after the junta seized power and exercised their authority to suppress opposition and resistance. Rather than using armed force to directly seize rule of the country, the NCPO exercises their authority by enforcing something called “law” and prosecuting cases against people who commit offences in something that only appears to be a “justice system.” The NCPO claims that they have taken these actions for the maintenance of peace and order in society and the protection of state security.

The actions in the name of “law” and the “justice system,” which only bear a semblance to their real predecessors, have been guided and directed by the NCPO and the military. Therefore, these actions have been used as instruments to aid in improving the image of the NCPO. In other words, “law” and the “justice system” are used to create an image of the NCPO as a rule of law regime. Upon analysis of the content of the aforementioned laws and justice system, including the Interim Constitution, however,

“ Upon examination of the legal system under the NCPO, it is clear that the content of that system is very far from the rule of law ”

“Between the coup and 30 April 2016, military officials have summoned at least 1,006 people to report themselves or attend ‘attitude adjustment’ sessions on military bases”

what is instead clear are the distortion of principles and defects of the process. The distortion and defects indicate that “law” and the “justice system” are merely instruments in the panoply of mechanisms of coercion used by the NCPO in the violation of the human rights of the people.

Thai Lawyers for Human Rights was established on the evening of 24 May 2014 in order to provide legal assistance to individuals whose human rights were violated and to collect information about the violation of human rights after the coup. To date, TLHR has provided legal assistance to a total of 119 people who are accused or defendants across 86 cases.

In addition to those legal cases in which TLHR provides assistance, there are a large number of other people who have not been formally charged but whose human rights have been violated and whose lives have been impacted by the exercise of power by the NCPO. According to information compiled by TLHR, between the coup and 30 April 2016, military officials have summoned at least 1,006 people to report themselves or attend “attitude adjustment” sessions on military bases. The authorities have intervened, stopped, or forbidden at least 130 seminars or public activities from taking place. At least 579 people have been arrested under martial law or Head of the NCPO Order No. 3/2015.

This report offers an analysis of the mechanisms through which the NCPO has exercised power to control the people and lend support to their own rule over the past two years. These mechanisms have functioned as instruments of coercion in respect to all kinds of political expression and systematized the violation of human rights. There are four primary kinds of mechanisms used by the NCPO: 1) The summoning of individuals to report themselves and state surveillance; 2) The construction of “law” and the “military-controlled justice system”; 3) The use of both ordinary and special laws as tools of political suppression; 4) The use of the 2014 Interim Constitution to prop up the exercise of power and foreclose accountability.

1. The summoning of individuals to report themselves and state surveillance

During the first period after the coup (May to July 2014), the NCPO issued 37 orders summoning 472 individuals to report themselves to the military. In addition to this number, during and following the first period there were also individuals who were summoned through means other than official, broadcast orders. This was especially the case in the provinces in which military officials instead raided the homes of targeted individuals, followed these individuals, or personally contacted them and told them to report to military bases. In some cases, relatives of targeted individuals were taken into custody in order to pressure them to report themselves. According to information compiled by Thai Lawyers for Human Rights, a total of at least 1,006 individuals

were summoned to report themselves across the country. This number included national and local politicians; leaders of political groups, especially local red shirt groups; activists; members of social movements; academics; and nongovernmental organization workers.

During the first ten months after the coup, the NCPO and military officials cited the authority of martial law to detain individuals who were summoned to report themselves for up to 7 days on military bases. The NCPO revoked martial law on 1 April 2015, but military officials retained the power to detain individuals on military bases for up to 7 days without having to request a court warrant under Head of the NCPO Order No. 3/2015. This order was issued under the authority of Article 44 of the Interim Constitution. In many instances of summoning and detention, the individuals were interrogated and questioned about their backgrounds even though they had not committed any crimes. Under NCPO Announcement No. 39/2014, those who reported themselves had to sign statements agreeing to the conditions that they would not engage in any political activities and that they would not leave the country without the permission of the NCPO. The NCPO further stipulated that any violation of these conditions would constitute a crime that fell within the jurisdiction of the military court. These agreements to binding conditions constitute an instrument of intimidation used to suppress political organizing during the past two years. Despite the choice implied in the word “agreement,” these agreements were made under conditions of force and detention by state officials in which those who signed did not have the freedom to choose whether or not to sign.

The military officials’ exercise of special authority has also taken the form of detention in secret, incommunicado locations. Relatives, lawyers, and ordinary individuals are unable to contact or access those who are detained. The civilian Criminal Court even refused to investigate the detention of individuals held under the authority granted by Head of the NCPO Order No. 3/2015. The majority of those detained are those who exercised their rights and liberties to peacefully express their opinions and demonstrate. This is arbitrary detention and is a violation of Article 9 of the International Covenant on Civil and Political Rights (ICCPR). Arbitrary detention continued throughout the NCPO’s second year of rule. This included, for example, the detention of Mr. Thanakorn Siripaiboon, who was subsequently charged with violation of Article 112 for posting a picture on Facebook that defamed the king’s dog; the detention of Mr. Sarawut Bamrungkittikhun, the administrator of the “Peod Praden” (Open Issues) page; and the detention of Mr. Watana Muangsook, a Pheu Thai Party politician, among others.

The detention of individuals in secret locations which cannot be inspected places them at risk of being tortured and subject to other forms of cruel and brutal treatment. Thai Lawyers for Human Rights has found that there are at least 18 individuals

“Military officials’ exercise of special authority has also taken the form of detention in secret, incommunicado locations”

“Individuals targeted by the NCPO who are summoned and detained remain targets after their release”

who have complained of being tortured while detained under martial law or Head of the NCPO Order No. 3/2015, including Mr. Sansern Sri-unruen, a defendant in the Criminal Court bomb case. To date, no progress has been made in the investigation of this torture complaint.

Simultaneously, individuals targeted by the NCPO who are summoned and detained remain targets after their release. They face continued monitoring and surveillance. In many areas of the country, military officials summon individuals for periodic conversations on military bases. They use a phrase invented by the NCPO: “invite for attitude adjustment.” If those targeted were truly “invited,” then they would have the freedom to decide whether or not to go and the authorities would have to respect their decision. Instead, the invitation operates as a threat. For example, Mr. Pravit Rojanaphruk, a former reporter for *The Nation*, and Mr. Thanapol Eawsakul, the managing editor of *Fa Dieu Kan* Press, were both summoned to report and then released but then detained again after they expressed criticism of the NCPO. In many cases, officials continue to meet with, telephone, follow, and otherwise surveil former detainees. They are sometimes summoned following military reshuffles in order to meet the new commander in a given area.

In many provinces, military officials monitored and followed local leaders to and from their homes daily during the first period after the coup. Others were compelled to report to the local military base and sign in weekly and told to inform officials if they left the area. In some cases, local activists have been repeatedly detained on military bases for expressing political views or engaging in political activism. Although the frequency of detention has been reduced, monitoring and surveillance increases each time there is a new wave of political organizing. During the last two years, many people have therefore had to carry out their lives in constant view of the state.

In addition to surveillance of those who were the original targets of the NCPO, the regime also intensively and strictly monitors activities of the people. Officials attend, patrol, photograph, or make video and audio recordings of nearly every public activity that is permitted to take place, even those not at all about politics. The officials sometimes reveal themselves and other times are clad in plainclothes. Their presence at events has become usual. Activities about issues of livelihood, natural resources, and community rights have also been followed closely. Community leaders and nongovernmental organization workers have been summoned to report to military bases and for “attitude adjustment.” This constitutes interference and is intended to deter movements and organizing activities with affected villagers and communities.

The state monitors and surveils thought. The “eyes” of the NCPO monitor and track people’s expression of opinions on social media and other locations online. In many instances, individuals

are summoned to military bases following the expressing of an opinion online. Instances include, for example, the case of a nongovernment organization worker who posted on Facebook about land disputes and referred to the NCPO, and the case of Mr. Sarawut Bamrungkittikhun. In some cases, even private postings or messages have been seen by the military and used as the basis to warn, threaten or prosecute the authors. This raises questions about the legality of how state officials access information and the protection of the people's liberty in using and communicating via the Internet. At present, Thai Lawyers for Human Rights is providing legal assistance to citizens in at least 23 cases in the military court released to expression of opinion online and violation of the Computer Crimes Act. These cases include, for example, the case of Burin and the mother of Ja New and the case of Mr. Harit and Ms. Natthika, all of whom are being prosecuted for the violation of Article 112 in private Facebook message conversations.

“Soldiers control the prosecutions of individuals and groups of individuals who oppose the coup or criticize the NCPO's rule”

Since the coup, the state apparatus, including the military, police, and various other security agencies, carries out comprehensive state surveillance of civilian political movements and expression of opinions across all spaces, including online social media. The state uses surveillance mechanisms further designed to ensure that civilians are aware that they are being surveilled, including summoning individuals to report to the military, detaining individuals on military bases, and sending military officials to homes and other private spaces for discussion and to suppress expression. These mechanisms constitute restrictions of the basic rights and liberties of the people and also create wide-ranging fear around the expression of political opinions. The junta's maintenance of “peace and order” is therefore carried out through coercion of civilians.

2. A justice system controlled by the military: the cycle of justice under the NCPO

The military-controlled justice system created by the NCPO ensures that they maintain strict control over the entire judicial process. This control begins with the determination of what constitutes a violation of the law that must be examined in the military court, proceeds to prosecution of the individuals in the military court, and concludes with judgment and punishment by military judges. This control also includes using the special authority provided by Head of the NCPO Order No.3/2015 for military officials to carry out arrest, interrogation, and the taking down of an individual's record before transferring him to police officials. In some cases, civilians are also detained in prisons established on military bases.

Significantly, soldiers control the prosecutions of individuals and groups of individuals who oppose the coup or criticize the NCPO's rule. They do so by relying on the semblance of a process of law and courts which instead functions as a tool of obstruction and

intimidation. The NCPO's use of the law and courts, and the prosecution of key example cases, creates fear designed to deter others from expressing their opinions about the junta or opposing the coup. The military-controlled justice system can be divided into the following four steps:

“The NCPO cited sovereign power to issue Orders and Announcements that set limits on the exercise of basic rights and liberties”

Step No. 1: The NCPO issues Orders and Announcements that stipulate which actions constitute crimes

After the coup, the NCPO cited sovereign power to issue Orders and Announcements that set limits on the exercise of basic rights and liberties. Normal activities of calling on the state to take action or otherwise participating in the setting of the political direction, all of which were legal under the previous democratic regime, were prohibited. In addition, the NCPO defined the violation of conditions of release following detention (which include prohibitions on expression of political opinions and involvement in political activities) as a prosecutable crime. If an individual exercised his basic rights and liberties (freedom of expression of opinion, freedom of assembly, freedom in the operation of political parties), he was in violation of the Orders and Announcements of the NCPO and was therefore criminally liable.

The stipulation of crimes in the NCPO Orders and Announcements means that if there is an individual or group of individuals who do not accept the coup or do not agree with the rule by the NCPO, and who then use their freedom of expression to express their disagreement, assemble to demonstrate, organize activities, or express their opinion via other channels, or even if they do not report to the junta when summoned, then they are in violation of the law. The NCPO and military officials under the command of the NCPO can then cite the Orders and Announcements as the reason for the arrest and prosecution of the individual or group of individuals in order to halt those activities.

Step No. 2: The NCPO provides military officials with powers equivalent to police officials via martial law and Head of the NCPO Orders

On 22 May 2014, the NCPO launched the coup and issued NCPO Announcement No. 2/2014, which placed the entire kingdom under martial law. Martial law provided special authority to military officials under the command of the NCPO and elevated them above civilian officials. They were provided with the power to search, arrest, and detain individuals suspected of being enemies of the crown or nation for up to 7 days in any place of detention without having to obtain a warrant or any other authority to detain from the court. When martial law was subsequently revoked [except in southern Thailand], the Head of the NCPO used the authority in Article 44 of the 2014 Interim Constitution to issue Head of the NCPO Order No. 3/2015 which gave special authority, very similar to martial law, to military officials to suppress actions that threaten the peace, order, and security of the nation.

Similar to martial law, Head of the NCPO Order No. 3/2015 provided military officials with the power to arrest, detain, and question individuals for up to 7 days before transferring them into the justice system administered under criminal law. In addition, however, Head of the NCPO Order No. 3/2015 augmented the power of military officials to be able to join police officials in the investigation of four kinds of offences stipulated in the order: offences against the king, offences against the internal security of the kingdom, weapons offences, and violations of NCPO Orders and Announcements. Military officials appointed as “Peace and Order Maintenance Officers” under the Order were also granted the status of investigation officials under the Criminal Procedure Code.

The announcement of Head of the NCPO Order No. 13/2016 further expanded the special powers of the military to interfere in and control the judicial process. This Order provides military officials appointed as “Prevention and Suppression Officers” and “Assistant Prevention and Suppression Officers” with the same authority as law enforcement officers to summon, search, arrest, detain, and participate in the investigation of individuals as part of the prevention and suppression of 27 kinds of crimes. These crimes include, for example, violations of the public peace, offences against liberty and reputation, offences related to human trafficking, drug violations, weapons violations, tariff and customs violations, and offences related to land and forests, etc. Under this Order, military officials have the power to take action against individuals that they view as influential figures whose behavior and actions are criminal and pose a dangerous threat to peace and order or undermine the social and economic system of the country. The order provides wide discretion to military officials to interpret and enforce the law. Individuals who lead opposition in local communities against development and industrial projects, such as Mr. Thaweesak Inkawang, a leader opposed to the Chiang Rak waste power plant in Pathumthani province, and Mr. Lamom Bunyong, who is the president of Pak Nam Ban Rao Group in Rayong, have been targeted under this Order.

Head of the NCPO Order Nos. 3/2015 and 13/2016 issued under Article 44 of the 2014 Interim Constitution have resulted in giving military officials the same powers as police officials. In turn, those suspected or accused of having committed crimes as defined by the NCPO find themselves in a criminal investigation and judicial process controlled by the military. They are arrested, detained, and investigated by military officials who are under the command of the NCPO.

Step No. 3: The NCPO stipulates which offences are within the jurisdiction of the military court

Several days after the coup, on 25 May 2014, the NCPO announced that four kinds of crimes would be placed within the jurisdiction of the military court: crimes against the king, crimes

“ Head of the NCPO Order No. 3/2015 augmented the power of military officials to be able to join police officials in the investigation of four kinds of offences stipulated in the order: offences against the king, offences against the internal security of the kingdom, weapons offences, and violations of NCPO Orders and Announcements ”

“Carrying out the prosecution of individuals and groups of individuals who have violated the authority of the NCPO in the military court system inevitably severely impacts the guarantee of the right to a fair trial under Article 14 of the ICCPR”

against national security, weapons crimes, and violations of NCPO Announcements and Orders, as well as any crimes carried out along with these four crimes. According to information from the Office of the Judge Advocate General, which is under the Ministry of Defense and administers the military court, from the coup until 30 September 2015, there were 1,629 civilians across 1,408 cases being prosecuted in the military court system across the country.

Carrying out the prosecution of individuals and groups of individuals who have violated the authority of the NCPO in the military court system, in which every step, including the decision whether or not to prosecute a given individual or group, is conducted by a unit under the command of the Ministry of Defense, inevitably severely impacts the guarantee of the right to a fair trial under Article 14 of the ICCPR. This is because the structure of the military court that carries out the prosecutions lacks independence and impartiality as the military court is under the command of the Army and the Ministry of Defense. The Ministry of Defense has the power to appoint, transfer, direct, order, and reward or punish judges, who are military civil servants. This means that prosecution, judgment and punishment in the military court can be understood to be under the command of the executive.

There are also inevitable questions about the impartiality of judges who adjudicate in cases in the military court about opposition to the NCPO. In such situations, the party who must appear in the court is prosecuted for his opposition to the NCPO, which is a junta comprised of commanders of the armed forces, and the military judges are under the command of the Commander of the Army.

In addition, for those cases prosecuted in the military court during extraordinary times, which were those between 25 May 2014 and 1 April 2015 while martial law was in force, defendants did not have the right to appeal to either the Appeal or the Supreme Court. Accused individuals and defendants face several other problems and obstacles in accessing justice in the military court. For example, cases are marked by delays and a slow pace of prosecution because witnesses are scheduled one-by-one, and each witness only gives testimony for one morning every few months. Other procedures in the military court differ from the civilian courts of justice. For example, defendants are not brought to appear before the court when the military prosecutor sends a case to trial, lawyers are not always informed in advance about witness hearings, and evidence and other documents for a given case are often not permitted to be photocopied by the defense.

Step No. 4: Establishing a civilian prison inside the 11th Military Circle

“In the interest of the maintenance of safety and the appropriate detention and treatment of prisoners in state

security cases and other related cases, who comprise a special category of prisoners for which there are particular reasons why they should be held separately from other prisoners, a separate detention center should be established.”—*Order of the Ministry of Justice No. 314/2015 on the Establishment of a Temporary Prison, 8 September 2015*

“ Prisoners in state security cases and other related cases, who comprise a special category of prisoners should be held separately from other prisoners”

- Ministry of Justice

The above passage was provided as the reason to establish a temporary prison inside the 11th Military Circle in the area of Nakorn Chaisri and Rama V Roads in Bangkok. General Paiboon Kumchaiya, the Minister of Justice and a member of the NCPO, signed the order. Although the prison is under the control of the Bangkok Remand Prison, it is located inside a military base and is part of the expansion of control of civilians by military officials. In contrast to defendants in other national security cases, who are under the control of prison officials, those held in this prison are under the control of military officials who have been appointed as “special wardens.” This has impacted detainees’ right to a fair trial, especially the right to meet and consult a personal lawyer.

The use of this prison to detain civilians inside a military base constitutes arbitrary detention and is in conflict with Article 9 of the ICCPR. This is detention that is not in line with international standards according to the United Nations Principles Governing the Administration of Justice through Military Tribunals, which note that civilians who are not military officials are not to be detained in military spaces. The location of the prison inside a military base also increases the opportunity for military officials to detain individuals for longer than 7 days.

Lawyers of clients detained inside this temporary prison have reported that a military official has been present each time that they have met with their clients to advise them and obtain information to be used in their defense. In addition, all of their questions had to be screened by a military official. If a question was deemed to impact “security,” then the military official would not allow the lawyer to ask it. These practices differ from the ordinary prison system in which questions are not pre-screened and in which there are rooms for private consultation between lawyers and clients.

In addition, two out of three persons accused of the crime of citing the institution of the monarchy for personal gain who were detained inside this temporary prison, “Mor Yong,” or Mr. Suriyan Sucharitpolwong and Police Major Prakrom Warunprapa, died while in custody. There has been no review of the prison and neither of the families participated in the autopsies. This constitutes a denial of their rights in the judicial process related to a death in state custody and is in violation of the right to a fair trial under Article 14 of the ICCPR. In addition, Mr. Chuchat Kanphao, the lawyer of Adem Karadag, a detainee in the Ratchaprasong

bomb case, has publicly stated that his client was tortured into confessing while detained inside this prison as well.

“The government holds that it is a duty of the utmost importance to glorify the institution of the monarchy with loyalty by using legal, social psychological, and communication and information technology measures against those who are impetuous, gloat, or bear malice targeting the primary institution of the nation”

- General Prayuth Cham-ocha

Through this series of four stages, the NCPO and the military enact the laws, enforce the laws, participate in the investigation, determine whether or not to indict, and render judgements in cases. This has created a judicial process and justice system under the direction of the military and in which the military controls the results. This therefore impacts the rights of the accused and defendants to access justice and seek fairness. Inevitably, this also serves as an instrument to intimidate and frighten those in society who are not prosecuted but witness the prosecution of others until they become afraid to express their ideas.

3. The use of ordinary law as an instrument of political suppression

In parallel with the use of NCPO Orders and Announcements, the junta also uses existing laws to suppress political expression. In particular, existing law has been interpreted in a manner that expands its meaning and application, rates of punishment have increased, cases of violation of certain laws have been placed within the jurisdiction of the military court, and accusations of violation of the law have been used as a form of political intimidation.

3.1 The use of Article 112 of the Criminal Code to obstruct freedom of expression

“Whoever defames, insults or threatens the King, Queen, the Heir-apparent or the Regent, shall be punished (with) imprisonment of three to fifteen years.” – *Article 112 of the Criminal Code*

The use of Article 112 of the Criminal Code has intensified continuously since the 2006 coup, including interpretation of the law in a manner that expanded its application. After the 22 May 2014 coup, the use of this law as an instrument to suppress political expression increased significantly. The suppression of individuals whose expression falls within the scope of violation of Article 112 has been one of the primary policies of the NCPO from the beginning of the regime. General Prayuth Chan-ocha, Prime Minister and Head of the NCPO, announced to the National Legislative Assembly on 12 September 2014 that,

“The institution of the monarchy is an important element of the regime of rule in Thai traditional democracy. The government therefore holds that it is a duty of the utmost importance to glorify the institution of the monarchy with loyalty and the protection of royalty by using legal, social psychological, and communication and information technology measures in taking action against those who

are impetuous, gloat, or bear malice targeting the primary institution of the nation, without considering the feelings and ties of loyalty of a large number of people.”

The provision of this importance was evident in the NCPO’s summoning of individuals and activists who had a history of being involved in campaigns to amend or revoke Article 112, or had a history of having expressed opinions or criticism of the institution of the monarchy. The NCPO also issued NCPO Announcement No. 37/2014, which placed Article 112 cases within the jurisdiction of the military court.

The TLHR is responsible for providing legal assistance in 18 cases of alleged violation of Article 112 in which civilians are being prosecuted in the military court, out of a total of 29 cases. Out of those cases in the military court, judgments have been delivered in 9 cases. Defendants in all 9 cases were not granted temporary release, chose not to fight the case, and confessed to the crime(s) as accused. Their crimes stemmed from posting on Facebook, being recorded while they held a conversation, organizing online political analysis programs or shows, uploading clips online, sending email with content that was judged to be criminal, sending private chat messages, writing poems, etc.

After the coup, the interpretation of Article 112 broadened to include protection of figures previously not protected under the law, including accusation of a person who made a Facebook post satirizing the royal dog and making false claims about Princess Sirindhorn, neither of whom are named in the law. Accusations have been made for clicking “like” on a Facebook post deemed to be within the scope of Article 112 and not dissuading or condemning a person who expressed an opinion deemed to be within the scope of Article 112. The interpretation of Article 112 has also expanded to include prosecution of a large number of people who have made false claims about the monarchy for personal gain. Previously, the law did not include these actions as components of possible offence.

Article 112 cases tend to be punished with higher penalties in the military court system than the civilian courts of justice. On average, the military court metes out punishment of 8-10 years per count, whereas the civilian court metes out punishment of 5 years per count. This increase has resulted in a new record for the longest sentence handed down under Article 112, which was in the case of Pongsak, who was sentenced to 60 years imprisonment, closely followed by the case of Sasiwimol, who was sentenced to 56 years imprisonment.

3.2 Using the accusation of danger to “security” to prosecute those who express opposition to the NCPO

Before the coup, Article 116 of the Criminal Code, or the crime of “sedition” was used infrequently. But since the coup, this measure

“After the coup, the interpretation of Article 112 broadened to include protection of figures previously not protected under the law, including accusation of a person who made a Facebook post satirizing the royal dog”

“The assessment of Thai Lawyers for Human Rights is that the actions for which individuals have been accused of violation of Article 116 over the past two years do not actually constitute crimes”

has become a primary instrument used by state officials to obstruct expression by those who criticize the NCPO. The NCPO does so by interpreting public expression to amend or revoke unjust laws and peacefully calling for a change of government as seditious acts that cause insubordination among the people. In doing so, the NCPO has interpreted the “government” to be equal to the “state,” even though they are not equivalent.

At present, there are at least 39 people who are being prosecuted under this law. Ongoing cases include, for example, the case of Mr. Pansak Srithep, who is being prosecuted for holding the “Proactive Citizen Walking” activity, and the case of a woman who took a selfie with a red water bucket. The case of Mr. Preecha Kaewbanpaew, who gave flowers to Mr. PansakSrithep, has already been adjudicated. Mr. Preecha confessed and the military court sentenced him to 6 months imprisonment, which was suspended for 1 year, and a fine of 8,000 baht.

The assessment of Thai Lawyers for Human Rights is that the actions for which individuals have been accused of violation of Article 116 over the past two years do not actually constitute crimes. Yet they are still indicted and prosecuted in military court. Examples of Article 116 accusations include the case of Rinda, who posted a message to Facebook about a money transfer by General Prayuth, and the case of “Mrs. Chaem,” who posted a message to Facebook about the Rajabhakti Park corruption scandal. The military court issued a recent opinion that these two cases were not violations of Article 116 and therefore not within their jurisdiction, which resulted in their transfer to the civilian courts of justice.

3.3 The broad use of law to obstruct freedom of assembly

After the announcement of martial law, the junta issued NCPO Announcement No. 7/2014, which prohibited public assembly of 5 or more persons and set the punishment as imprisonment of up to 1 year and/or a fine of 20,000 baht. Then, after martial law was lifted, it was replaced by Head of the NCPO Order No. 3/2015. Article 12 of this Order prohibits political assembly of 5 or more persons and sets the punishment as imprisonment of up to 6 months and/or a fine of 10,000 baht. Then, the National Legislative Assembly passed the 2015 Public Assembly Act, which went into force in August 2015. This means that at present there are two laws which limit freedom of assembly and the organizing of public activities.

Head of the NCPO Order No. 3/2015 and this law passed by the unelected National Legislative Assembly have been used by state officials in an overlapping fashion. In addition, the meanings of “political assembly” and “public assembly” have been interpreted broadly. For example, holding a press release offering an academic view in a private place has fallen within the scope of offence, such as the case of the academics who issued “The University is not

a Military Base” statement, has been cast as violation of Head of the NCPO Order No. 3/2015. Prosecution under both measures has also been used to threaten individuals into cooperating with respect to organizing activities or assemblies that are about politics or that state officials claim will impact “security.” In addition, if an individual or group of individuals wishes to organize a public seminar, they must inform the military officials beforehand.

To date, the military authorities have interfered in, obstructed, or forbidden at least 130 public activities and seminars. At least 85 individuals have had cases brought against them for joining political or public assemblies of 5 or more people. Within this number, at least 25 people across 7 cases have been prosecuted for violating Article 12 of Head of the NCPO Order No. 3/2015. These cases include those arrested for assembly at the Bangkok Art and Culture Centre (22 May 2015), the Democracy Monument (25 June 2015), “The University is not a Military Base” press release (31 October 2015), and the train to Rajabhakti Park (7 December 2015).

“ The military authorities have interfered in, obstructed, or forbidden at least 130 public activities and seminars ”

3.4 The use of the justice system to threaten human rights defenders

After the coup, law and the justice system were taken up by the state as a tool to threaten human rights defenders who carried out their professional duties in providing legal assistance, expressing opinions, and campaigning about the violation of human rights or about the rule of the NCPO. State officials have engaged in judicial harassment of human rights defenders in many cases, including the case of Miss Sirikan Charoensiri, the lawyer for the 14 students in the New Democracy Movement. Shortly after the arrest of the 14 students, the police officials wanted to search her car to obtain the students’ mobile telephones. As the police officials did not have a warrant, she refused. In response, the police officials accused her of obstruction of duty and concealing evidence by refusing to allow soldiers to search her car.

Another example of judicial harassment is the case of making a false complaint brought by military officials against Miss Benjarat Meetian. She filed a case against Major General Wicharn Jodtaeng, from the NCPO’s Legal Office, Police Lieutenant General Srivara Ransibrahmanakul, the Deputy National Police Commander, as the chair of the working group on “grave defamation of the royal institution,” and the working group itself. She accused them of derogation of duty, propagation of defamation, and making a false complaint during their declaration of the arrests in the suspects of the KhonKaen model network.

4. The 2014 Interim Constitution: The guarantee and affirmation of the exercise of power without accountability in the military-controlled justice system by the highest law in the land

“The exercise of power under NCPO Orders and Announcements has frequently been marked by illegality and illegitimacy”

Only 2 months after the coup, the NCPO promulgated the 2014 Interim Constitution for use in place of the prior, nullified Constitution. The NCPO announced that the Interim Constitution contained provisions that guaranteed the rights and liberties of the Thai people which were protected according to the tradition of democratic rule and the country's international obligations. These provisions, and the acknowledgment of rights and liberties in the Interim Constitution, should provide the people with a channel to counter the exercise of power by military officials and the NCPO.

The exercise of power under NCPO Orders and Announcements has frequently been marked by illegality and illegitimacy. There are two channels through which citizens whose human rights are violated can challenge this exercise of power: (1) rely on the authority of the Administrative Court or the civilian courts of justice to review the legality of the exercise of power by military officials following NCPO Orders and Announcement; and (2) rely on the authority of the Constitutional Court to review the constitutionality of NCPO Orders and Announcements. These are mechanisms within the ordinary legal system that allow citizens to protect themselves from the arbitrary exercise of power by the state.

However, although the Interim Constitution stipulates the protection of the rights and liberties of the people, it has also become an instrument of the NCPO which guarantees and affirms the exercise of power without accountability in the military-controlled justice system. This results in the impossibility of any other state agencies countering the exercise of power of the NCPO and therefore the impossibility of protecting the rights and liberties that are mentioned in the Interim Constitution. The exercise of power without accountability is accomplished through 2 key steps.

Step No. 1 Articles 44 and 47 of the 2014 Interim Constitution stipulate that the Orders, Announcements, and the Head of the NCPO Orders, which form the basis of the authority for the exercise of power that impacts the rights and liberties of the people, to be legal, constitutional, and final. This means that the Administrative Court and the civilian courts of justice are unable to review the legality of the aforementioned exercise of power by the authorities, even if the facts show that it was illegal.

An example of this can be found in Supreme Administrative Court Order No. 617/2015 made on 26 November 2015 which upheld the NCPO's lack of accountability. The Supreme Administrative Court dismissed the lawsuit filed by Mr. Watana Muangsook against the Head of the NCPO to revoke NCPO Announcement No.

21/2014, which forbids selected individuals from traveling outside the kingdom. The Supreme Administrative Court ruled that they had a duty to adjudicate the case according to the Constitution. Therefore, since Article 47 of the Interim Constitution guarantees that all NCPO Announcements issued between 22 May 2014 and when the first post-NCPO Cabinet enters office are legal, constitutional, and final, they could not review its legality. Under the junta regime, the power of the judiciary to function as a check on the power of the executive is almost nonexistent.

“ Under the junta, the power of the judiciary to function as a check on the power of the executive is almost nonexistent ”

Step No. 2 The Interim Constitution creates mechanisms to obstruct the people from exercising their right to review the constitutionality of the Orders and Announcements at two different levels.

First level: The Interim Constitution limits the organizations that can call for a review of the constitutionality of an NCPO Order or Announcement as enforced in a particular case to the Constitutional Court and plenary sessions of the Supreme Court and the Supreme Administrative Court. There are no avenues through which citizens can bring a petition directly. Further, it appears that it is not possible to bring a case for review by the Constitutional Court if it falls within the jurisdiction of the military court. For example, Miss Jittra Kotchadej submitted a petition in the Bangkok Military Court requesting Constitutional Court review of NCPO Announcement Nos. 37/2014 and 38/2014. But Bangkok Military Court Order No. 6/2015, issued on 6 March 2015, dismissed the petition and noted that Article 5 of the 2014 Interim Constitution did not establish a channel for military court judges to send matters for Constitutional Court review.

Second level: A very limited channel remains in the 2014 Interim Constitution for citizens to petition for Constitutional Court review of NCPO Orders and Announcements. However, Articles 44 and Article 47 of the Constitution guarantees that the same NCPO Orders and Announcements, no matter the content, are legal, constitutional, and final. As a result, the Constitutional Court is unable to review the constitutionality of these measures, even though they violate the rights and liberties of the people, also guaranteed by the Constitution.

Finally, the 2014 Interim Constitution of the NCPO has destroyed the rule of law and the protection of the human rights. That is to say, in addition to the NCPO using the Constitution to guarantee that all of the Orders, Announcements, and Head of the NCPO Orders are “legal, constitutional, and final,” according to Articles 44 and 47, perpetrators of all of the executive, legislative, and judicial actions of the NCPO, even those that are illegal and include grave violations of human rights, “shall be exempted from being offenders and shall be exempted from all liabilities according to Article 48. Therefore, these three articles of the Interim Constitution place the NCPO and related state officials

beyond accountability. The dispossession of citizens' rights in accessing justice and reparations for damages sustained from the exercise of state power are grave violations of both their human rights and Thailand's international obligations. In addition, the Constitution provides for the arbitrary exercise of power without accountability in a justice system controlled entirely by soldiers. This creates a void in which even through the Constitution legislates the protection of the rights and liberties of the people, this has no effect on the actions by the junta.

Conclusion

The defense given by the NCPO that their actions are in the name of "law" and the "justice system" plays an important role in the creation of legitimacy for their arbitrary exercise of power. This creates an image of a state that enforces the law against those who commit crimes and is consistent the rule of law. But upon examination, it becomes clear that the content of this justice system was formulated by the junta itself. Existing law has been interpreted broadly and pressed into service as a political instrument. The justice system is controlled by the military. The intimidation of citizens both by summoning them to report and surveilling and monitoring them is comprehensive. Taken together, this forms a basis for the intentional and systematic violation of the human rights of the people.

The 2014 Interim Constitution is used to prop up the legality of this military-controlled justice system and ensures that the entire system is exempt from review. This has resulted in the exercise of total power in the absence of any accountability. While claiming to "proceed according to the law," the two years of rule by the NCPO has been a period in which Thai society allowed one group, without a foundation rooted in the sovereignty of the people, to exercise the legislative, executive, and judicial authority of the state. They have exercised this authority without accountability for its present or future impacts.

On the occasion of the 84th anniversary of the transformation from absolute monarchy to a democratic regime founded on the important principles of the rights, liberties and sovereignty of the people, Thai Lawyers for Human Rights maintains our call for the National Council for Peace and Order to do the following:

1. Halt and end the prosecution of civilians in the military court system;
2. Halt and end the exercise of power under Article 44 of the 2014 Interim Constitution;
3. Return power to the people swiftly, organize elections, and draft a constitution that comes from the people.

With respect for the rights and liberties of the people.

Other special issues of *article 2* on torture in Asia:

October 2013	Torture in Asia: The law and practice (Jointly published with REDRESS)
June 2013	A façade of justice for torture victims in Indonesia
December 2011	Torture and ill treatment in Sri Lanka
September 2011	The Asian Alliance against Torture and Ill Treatment
March 2011	Torture in the Philippines & the unfulfilled promise of the 1987 Constitution
September 2010	Torture prevention & policing law in India
October 2005	An x-ray of the Sri Lankan policing system & torture of the poor
June 2005	Governments of Asia obliged to respond to torture
February 2004	Endemic torture & the collapse of policing in Sri Lanka
August 2002	Torture committed by the police in Sri Lanka

**All issues available for free download at
www.article2.org**

In this issue of *article 2*

SPECIAL ISSUE: Torture in Thailand's deep south

Editorial board, article 2

- Introduction: Torture in Thailand's deep south

Cross Cultural Foundation, Duayjai, and Patani Human Rights Organisation

- Torture and ill treatment in Thailand's deep south
- Annex: The death in custody of Abduldayib Dolah

David W. Engstrom, Professor of Social Work, San Diego State University

- Rehabilitation of survivors of violence

Thailand Desk, Asian Human Rights Commission

- Human rights defenders under attack in Thailand, again

Comics for Human Rights

- Documenting torture in Thailand: A conversation with Pornpen Khongkachonkiet

Asian Legal Resource Centre

- Thailand: Survivors of torture denied justice by military dictatorship

Thai Lawyers for Human Rights

- Appendix: The force of the gun camouflaged as law—Two years of rule by the NCPO

article 2 is published by the Asian Legal Resource Centre (ALRC) in conjunction with *Human Rights SOLIDARITY*, published by the Asian Human Rights Commission (AHRC).

ALRC is an independent regional non-governmental organisation holding general consultative status with the Economic and Social Council of the United Nations. ALRC seeks to strengthen and encourage positive action on legal and human rights issues at local and national levels throughout Asia.

ALRC invites submissions to *article 2* by interested persons and organisations concerned with implementation of human rights standards in the region.

For further details, email the editor: editor@article2.org

Back issues of *article 2* available online:

www.article2.org

Editorial Board

Md. ASHRAFUZZAMAN

Nick CHEESMAN

Meryam DABHOIWALA

Basil FERNANDO

Bijo FRANCIS

Jayantha de Almeida GUNERATNE

Baseer NAVEED

Kishali PINTO-JAYAWARDENA

Danilo REYES

Annual Subscription Fee (4 issues)

Hong Kong HK\$250

Asian Countries US\$35

Outside Asia US\$50



Asian Legal Resource Centre

G/F, 52 Princess Margaret Road

Ho Man Tin, Kowloon

Hong Kong SAR, China

Tel: +(852) 2698-6339

Fax: +(852) 2698-6367

E-mail: editor@article2.org

Website: www.article2.org

<http://alrc.asia/article2/>



Printed on
recycled paper

9 771811 702001

Cover image by Comics for Human Rights