



“MAKE HIM SPEAK BY

TOMORROW” – EXECUTIVE SUMMARY

TORTURE AND OTHER ILL-TREATMENT IN THAILAND

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EXECUTIVE SUMMARY

“They asked, ‘*Did you do it?*’ Whoever said ‘*no*’, they shocked. We were all crying and screaming. They shocked my genitals, chest and ears. They did the same with the others. I was shocked more than 20 times... Then they covered my face with plastic garbage bags and tightened them so I couldn’t breathe, until I fell down... They kept telling us to confess. I feared I would die. I was thinking about my wife, my children. I didn’t want to lose them.”

A 47-year-old *Lahu* man describing torture by police officers after being stopped at a roadside checkpoint in Chiang Mai province.

In recent years, soldiers and police officers in Thailand have routinely used torture and other ill-treatment against individuals in their custody, despite repeated assertions by authorities to the contrary. Torture has often occurred behind closed doors: at military bases, detention centres, police stations and unofficial places of detention. At other times, torture has occurred in public view: on a street or at a police roadblock. Victims have been suspected insurgents, government critics, and migrant workers, suspected drug users, ethnic minorities and others from various walks of life. These abuses have been facilitated by a legal and institutional framework that, on the one hand, inadequately safeguards against torture and other ill-treatment and, on the other, fails to ensure accountability for perpetrators or justice for victims.

This report describes 74 cases of torture or other ill-treatment documented by Amnesty International during six visits to Thailand between 2014 and 2015. The report reviews and analyses the failures in Thailand’s laws, policies and practices that have facilitated these appalling human rights violations and provides detailed recommendations to the Thai authorities on the steps needed to put an end to torture and other ill-treatment in the country.

On 22 May 2014, military leaders overthrew a caretaker government in a bloodless coup in Thailand, ending months of political uncertainty and street protests. The National Council for Peace and Order (NCPO), as the military government is known, promised to reform government before restoring democratic rule. The timeline for elections and political transition has been repeatedly extended. At the time of writing, it appears the

NCPO will remain in power until elections are held in late-2017, at the earliest, and a new government is installed.

The NCPO inherited a host of challenges beyond Thailand's longstanding political crisis. In southern Thailand, ethnic-Malay separatists have waged a bloody insurgency that has left thousands dead and deeply scarred the civilian population in the region. Regional migration crises, drug trafficking, and threats to national security have also demanded the NCPO's attention. In responding to these challenges, Thai authorities have often resorted to torture and other ill-treatment, in violation of Thailand's obligations under international law.

TORTURE FACILITATING LAWS AND PROCESSES

Thailand is a state party to the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the key international treaty concerning torture. The Convention bans torture and other ill-treatment absolutely, in all circumstances and without exception. Thailand is also a party to other international treaties that prohibit torture and other ill-treatment. The Royal Thai Government is therefore obligated to act effectively to prevent and remedy torture and other ill-treatment. As described in this report, there is much more that the Thai authorities could be, and should be, doing.

Thailand's legal framework insufficiently protects individuals from torture and other forms of ill-treatment. The 2014 Interim Constitution, promulgated by the NCPO shortly after the coup, is silent on the issue of torture. Moreover, Thailand's Penal Code does not define torture as a distinct criminal offence, nor does Thai law unequivocally prohibit the use in court of evidence obtained through torture or other ill-treatment.

Thai law establishes several key legal safeguards against torture, including the duty to bring detainees before a court within 48 hours of arrest and the right of detainees to have legal counsel present during questioning. However, several laws and government orders override these protections, including the Martial Law Act of 1914 and Head of NCPO Orders No. 3/2558 (2015) and 13/2559 (2016) (hereafter Order No. 3/2558 and 13/2559). These laws and orders give military officers the right to detain individuals in unofficial places of detention – “premises other than police stations, detention facilities, or prisons”, according to the two orders – without judicial oversight for periods of up to seven days. In other words, detainees may be held in unacknowledged, unregulated, and unsupervised detention, stripping them of key safeguards against torture and other ill-treatment.

The Martial Law Act has been applied continuously in conflicted affected areas of southern Thailand since 2006, alongside an Emergency Decree on Public Administration in State of Emergency (hereafter Emergency Decree), which allows for a further 30 days of military detention with court approval. Two days before the coup, the military imposed martial law throughout Thailand. In April 2015, martial law was repealed – except in the southern provinces – and replaced by Order No. 3/2558, which grants military officers powers to detain individuals for alleged offenses against the monarchy and serious security threats. Order No. 13/2559, issued in March 2016, expanded the military's powers of detention to cover a broad range of criminal activities.

Amnesty International found that torture and other ill-treatment by soldiers overwhelmingly occurred during the seven day period of unaccountable detention authorized by these laws and orders. Amnesty International also found that police officers regularly circumvented safeguards against torture and other ill-treatment provided by Thai law by, for example, interrogating detainees outside police stations and by using violence, intimidation and humiliation to secure bribes instead of processing cases within the criminal justice system.

These deficiencies in Thailand's legal framework, policies and practices have had grave consequences for individuals and communities throughout the country.

TORTURE IN THAILAND'S "DEEP SOUTH"

In southern Thailand, soldiers have routinely tortured suspected insurgents and others in military camps during the seven days of unaccountable detention authorized by Martial Law. Victims described being kicked, beaten with fists, sticks and the butts of guns, choked, strangled, suffocated with plastic bags, and subjected to waterboarding, among other types of abuses. These forms of torture and other ill-treatment were often applied in an attempt to force detainees to confess to crimes or provide information to support counter-insurgency efforts. After seven days of detention and abuse, most detainees were transferred to Ingkayuthboriharn Army Camp (hereafter Ingkayuth), where the conditions of detention improved significantly for most individuals. However, a few of those interviewed by Amnesty International also described being tortured or ill-treated at Ingkayuth.

"Fisal" (not his real name), a man in his late 20s who was arrested in southern Thailand in late 2013, told Amnesty International about how he was tortured by soldiers immediately following his arrest:

"They asked me to identify myself in a photo. I said it wasn't me. They repeated the question and after I denied it for the third time they started kicking me. Then they handcuffed my hands behind my back with steel cuffs. They used a scarf to choke me from behind, asking me: did you [commit the crime]? There were six of them. Whenever I ran out of breath they'd stop, then do it again. They repeated it three times. I felt I would die at any moment. Then they used a plastic bag that they found and put it over my head and tightened it from behind with a scarf. They also slapped and kicked me, and beat me with the butts of their guns on my back and chest. I couldn't breathe from all of this. I was crying and saying, 'I didn't do anything', but they didn't stop. This lasted about half an hour. Then I passed out. They poured water on me to wake me up."

"Fisal" told Amnesty International that he was subsequently transferred to a Taskforce base, where he was held and tortured for a week before being released without charge. In addition to further physical abuse, "Fisal" was humiliated and subjected to a mock execution.

TORTURE OF THOSE ACCUSED OF "POLITICAL" CRIMES AND ACTS OF POLITICALLY-MOTIVATED VIOLENCE

In the contentious post-coup environment, martial law and Order No. 3/2558 have facilitated the detention of hundreds of political figures, activists, journalists, academics and others at army bases and elsewhere. Often these periods of detention took the form of "attitude adjustment" sessions in which detainees were held for up to seven days, questioned about their activities and motives, and "encouraged" to refrain from future political activities. In many cases, the conditions of their detention and treatment by officials – including incommunicado detention, exertion of psychological pressures, prolonged blindfolding, and restrictive conditions of release – could constitute cruel, inhuman or degrading treatment or punishment.

For others, these were seven days of torture, often using the same methods employed in the counter-insurgency context in southern Thailand. "Lert" was summoned for questioning by the army soon after the coup. He told Amnesty International about his experience of being blindfolded and severely beaten while he was interrogated at an army camp in Bangkok:

"They interrogated me from noon – or maybe 11am – to 8 or 9pm every day for four consecutive days. They would not give me water during this time. There were two or three strong men who would attack and beat me during the interrogation. They'd hit me with their fists or kick me with their feet. I could tell there were

different people because their voices were different. They wanted me to confess and they said they had recorded me on camera.

I never said no; I always had to say yes to their questions. I'd fall down from the beating, and then they would pull me up. I would fall off the chair; sometimes I just could not breathe. They would put me back on the chair to carry on with the interrogation. I was hit on the chest, sometimes with a solid weapon or object that made a clunking noise. It made my muscles tense up. If I tensed my body when they hit me, the impact of the beating would be more painful, so I tried to relax my muscles. They said to me on the second day, 'Today you have to speak or your family will be in trouble. I know where [they] live'. They threatened that they would abduct members of my family and make them disappear."

The extensive use of torture in southern Thailand and in the context of political and security-related cases – as described in this report, and documented by Thai NGOs – as well as the serious shortcomings in Thailand's legal framework relating to torture, have led Amnesty International to conclude that torture and ill-treatment by military officers in Thailand is systematic, as defined by Article 20 of the UN Convention against Torture.

TORTURE IN THE CONTEXT OF LAW ENFORCEMENT OPERATIONS

Torture and other ill-treatment are not limited to just the counter-insurgency operations in southern Thailand or political and security cases arising since the coup. In recent years, police officers and soldiers have regularly tortured or otherwise ill-treated suspected drug users, migrant workers, members of ethnic minorities, indigenous peoples and others as part of routine law enforcement operations. Police officers and soldiers who inflicted torture or other ill-treatment in the context of law enforcement or routine security operations are generally not exercising powers granted by the Martial Law Act or Order No. 3/2558. Rather, they routinely circumvent the safeguards against torture provided in the Criminal Procedure Code and elsewhere in ordinary Thai law, including by perpetrating abuses away from police stations at locations such as temporary roadblocks, city streets or other public spaces. However, Amnesty International is deeply concerned that Order No. 13/2559, providing military officers powers of unregulated detention in relation to a wide range of criminal offences, will facilitate abuses within a broader context.

The use of public humiliation is a hallmark of the police response to suspected drug users in Thailand. Amnesty International found that police officers often force drug users to urinate in public at roadblocks or on city streets, ostensibly for the purpose of a drug test. Additionally, police officers have often used the enforcement of drug laws as a pretext for extorting money from vulnerable individuals, using violence, humiliation and threats to ensure that bribes are paid.

Migrant workers in Thailand, many of whom are undocumented and unregistered, are similarly susceptible to abuses of power by government officials. In particular, the authorities' power to summarily deport individuals without providing access to judicial or administrative processes makes migrants particularly vulnerable to violence, coercion and extortion. Most of the encounters documented by Amnesty International ended with detained migrant workers paying a bribe.

ENDING THE USE OF TORTURE IN THAILAND

Victims of torture face numerous challenges in securing redress. The Interim Constitution, Martial Law Act, Emergency Decree, and Order No. 3/2558 and Order No. 13/2559 each contain immunity provisions that could be – and have been – used to shield military and other authorities from accountability for acts of torture and other ill-treatment. Moreover, Amnesty International found that police officers, prosecutors and courts, when confronted with allegations of torture or other ill-treatment are often unable or unwilling to investigate such allegations promptly, independently, impartially and effectively, as required by international

law and standards.

In reports submitted to the UN Human Rights Committee and the UN Committee against Torture, the Thai government has committed to upholding its international obligations regarding the prohibition of torture and other ill-treatment. Additionally, in recent years, the Thai government has held promising consultations with local and international NGOs, including Amnesty International, regarding the introduction of anti-torture legislation. At the time of writing, the draft Prevention and Suppression of Torture and Enforced Disappearance Act (hereafter “Torture and Enforced Disappearance Act”) is being considered by the National Legislative Assembly. If additional amendments are made to ensure full compliance with the UN Convention against Torture, this law would represent a significant step towards preventing torture in the country. Amending and passing the bill should be one of the government’s top priorities.

Ending the use of torture and other ill-treatment by officials will require a concerted, sustained and multifaceted effort that incorporates the establishment of new bodies and processes, the training of soldiers, police officers, judges and civil servants, cooperation with the international community, and additional legislative reform beyond passing the aforementioned bill. Moreover, to end torture, Thai authorities will need to reverse the widespread impunity enjoyed by the security services and establish military and police cultures that respect and protect individuals from all sectors of society.

KEY RECOMMENDATIONS

- **End unaccountable detention:** Repeal or amend the 1914 Martial Law Act, the Emergency Decree of 2005 and Orders No. 3/2558 and 13/2559 to ensure compliance with international human rights law and standards, including by ensuring that individuals are only detained in official places of detention with prompt access to lawyers, family members and independent courts, and by ensuring that all questioning takes place in the presence of an independent lawyer.
- **Criminalize torture:** Ensure that the draft Torture and Enforced Disappearance Act fully complies with the requirements of the UN Convention against Torture and then pass it into law without delay.
- **Ban the use of evidence obtained by torture or other ill-treatment:** Ensure in law and practice that “confessions” and other statements obtained through torture or ill-treatment are never admitted as evidence in courts, including by amending section 226(1) of the Criminal Procedure Code.
- **Investigate and prosecute:** End impunity by creating or assigning, as part of the Torture and Enforced Disappearance Act, an independent, accessible, civilian body to promptly, impartially and efficiently investigate all complaints and other reports of torture and ill-treatment, and where sufficient admissible evidence is found, prosecute suspected perpetrators, irrespective of rank or status, in fair trials.
- **Create a monitoring body:** Ratify and implement the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, including by establishing an independent, efficient and well-resourced National Preventive Mechanism with powers to conduct unimpeded and unannounced visits to all places of detention and all persons deprived of their liberty.
- **Provide remedies to victims of torture and other ill-treatment:** Institute a systematic and comprehensive range of effective and accessible measures, in consultation with victims of torture and their representatives, to grant all victims of torture and other ill-treatment reparations in accordance with international standards, including restitution, rehabilitation, compensation, satisfaction and guarantees of non-repetition.

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CONTACT US



info@amnesty.org



+44 (0)20 7413 5500

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In Thailand, senior government officials have declared their commitment to ending the use of torture. Nevertheless, Amnesty International has found, through a two year investigation, that torture remains shockingly common.

Legislators are considering a new law that, if passed, would explicitly criminalise torture and further protect against torture and other forms of ill-treatment. Adopting and implementing an anti-torture law that fully complies with the UN Convention against Torture are essential steps that Thailand must take to end these grave violations.

The report *“Make him Speak by Tomorrow”* describes the findings of a two year investigation by Amnesty International into the use of torture and other ill treatment by Thai authorities. With the help of local human rights NGOs, Amnesty International collected first-hand testimony of survivors, court documents, medical records and various other forms of evidence relating to 74 cases of torture perpetrated in a variety of contexts. In southern Thailand, soldiers have tortured individuals with suspected links to insurgent groups. Elsewhere, authorities have tortured or otherwise ill-treated individuals accused of politically-related offences or acts of political violence, suspected drug users, migrant workers and others. This executive summary summarizes the legal and institutional failures that facilitate torture and other ill-treatment in Thailand and offers key recommendations to such abuses once and for all.