

Thailand: at fourth anniversary of enforced disappearance of “Billy”, still no resolution

On the fourth anniversary of the apparent enforced disappearance of Karen activist, “Billy,” the ICJ repeats its calls for the Department of Special Investigations (DSI) to assume responsibility for effectively investigating the case.

To date no progress has been made to establish the fate of Billy and the DSI has declined to take up the matter.

Pholachi “Billy” Rakchongcharoen was last seen on 17 April 2014 in the custody of Kaeng Krachan National Park officials.

At the time of his apparent enforced disappearance, Billy had been working with ethnic Karen villagers and activists on legal proceedings the villagers had filed against the National Park, the Wildlife and Plant Conservation Department, the Ministry of Natural Resources and Environment, and the former Chief of Kaeng Krachan National Park concerning the alleged burning of villagers’ homes and property in the National Park in 2010 and 2011.

“The very reason the DSI was created was to investigate complex cases of this kind, including where Government officials may be implicated in gross human rights violations that amount to crimes under international law,” said Kingsley Abbott, Senior International Legal Adviser with the ICJ.

“If the DSI continues to refuse to open a special investigation after four years of little apparent progress by the police, the DSI will risk being perceived as contributing to the pervasive culture of impunity that exists within Thailand,” he added.

This week, Billy’s wife, Phinnapha Phrueksaphan, advised the ICJ that the last time the DSI had discussed Billy’s investigation with her and her family was over a year ago.

The ICJ was further informed that on 9 April 2018, Phinnapha submitted a letter to the Director-General of the DSI seeking updates on the progress of Billy’s case and clarification as to why the DSI had not accepted Billy’s case for a special investigation.

“Thailand has a clear legal duty to continue to investigate the case until Billy’s fate or whereabouts are established and to ensure that the investigative process and any outcomes are transparent - which is especially important to victims’ families who play a crucial role in investigations,” added Abbott.

On 23 May 2017, Thailand established a Committee consisting of 18 officials, including from the DSI, to formulate policies for the prevention of acts of torture and enforced disappearance, and to investigate and provide remedies in accordance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which Thailand is a party, and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), which Thailand has signed but not yet ratified.

On 26 June 2017, the Committee reportedly stated that it would consider past, pending and new cases of enforced disappearance, including the case of Billy.

However, the Committee has yet to demonstrate effectiveness in efforts to implement Thailand’s international human rights obligations.

"While any steps Thailand takes towards accountability for allegations of torture, ill-treatment and enforced disappearance is welcome, the Committee should not be seen as a meaningful substitute for establishing these as crimes under domestic law," Abbott said.

Background

Since July 2014, the ICJ has repeatedly called for the DSI to assume jurisdiction over the case.

In January 2017, three years after Billy's apparent enforced disappearance, the DSI rejected a request filed by Phinnapha Phrueksaphan to open a special investigation into Billy's case on the basis of three reasons: that investigation efforts had not resulted in conclusive results; Phinnapha had no standing to petition the DSI as she was not legally married to Billy; and the DSI's investigation could only proceed if Billy's body was found.

The Royal Thai Government has signaled its recognition of the gravity of the crime of enforced disappearance, and its commitment to combating it, by signing the International Convention for the Protection of All Persons from Enforced Disappearance on 9 January 2012.

The Convention affirms the absolute right not to be subject to enforced disappearance and places an obligation on states to investigate acts of enforced disappearance, to make it a criminal offence punishable by appropriate penalties that take into account its "extreme seriousness" and to take the necessary measures to bring those responsible to justice.

The DSI was created by The Special Investigation Act B.E. 2547 (2004) and has the power to assume jurisdiction over special criminal cases including complex cases that require special inquiry; crimes committed by organized criminal groups; and cases where the principal person or the person who instigates or supports the crime is an influential person.

Thailand is in the process of drafting domestic legislation criminalizing enforced disappearances and torture, progress on which has been slow. Thailand's Ministry of Justice is now conducting a second round of public consultations on the Draft Prevention and Suppression of Torture and Enforced Disappearance Act ('Draft Act').

The ICJ has expressed serious concern that adoption of the Draft Act as it currently stands, including its recent amendments of 6 March 2018, will fail to bring the law into compliance with Thailand's international human rights obligations.

On 13 March 2017, Thailand advised the UN Human Rights Committee that an "attempt had been made to transfer the case [of Billy] from the local investigating team to the Department of Special Investigation, but the Department had refused to accept it; it would, however, continue to assist with the search for Mr. Rakchongcharoen and the preliminary investigation."

Further Reading

Billy's case

ICJ, ['Launch special investigation into enforced disappearance of "Billy"'](#), 6 August 2015

ICJ, ['Strengthen efforts to solve the apparent enforced disappearance of "Billy"'](#), 16 April 2015

ICJ, ['"Disappearance" of Billy demands special investigation'](#), 17 July 2014

ICJ, ['Thai authorities must urgently investigate Billy's 'disappearance''](#), 28 April 2014

Draft Act criminalizing torture and enforced disappearance

ICJ and Amnesty International, Open letter to Thailand's Minister of Justice on the amendments to the Draft Prevention and Suppression of Torture and Enforced Disappearances Act, 12 March 2018

[English](#)

[Thai](#)

ICJ and Amnesty International, [Recommendations to Thailand's Ministry of Justice on the Draft Prevention and Suppression of Torture and Enforced Disappearances Act](#), 23 November 2017

Human Rights Committee review of Thailand

ICJ and Thai Lawyers for Human Rights and Cross-Cultural Foundation, [Joint follow-up submission to the UN Human Rights Committee](#), 27 March 2018

UN Committee against Torture review of Thailand

ICJ and Thai Lawyers for Human Rights, [Joint submission to the UN Committee against Torture](#), 29 January 2018

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