

Thailand: One year on, authorities have fallen short in implementing the landmark Anti-torture and Enforced Disappearance Act

22 February 2024

As Thailand marks today the first anniversary of the entry into force of the groundbreaking Prevention and Suppression of Torture and Enforced Disappearance Act, the International Commission of Jurists (ICJ) calls on the Thai authorities to do much more to make its protections real in practice. While welcoming the implementation of certain preventive measures contained in the Act, the ICJ is concerned at the failure to provide proper training for responsible authorities on enforcement and to ensure prompt, thorough, and effective investigation and prosecutions in cases of alleged torture and enforced disappearances.

Prosecution of allegations of torture, ill-treatment and enforced disappearances

“Thailand has a poor track record when it comes to providing redress and accountability for victims of the crimes of torture and enforced disappearance, and this legislation was meant to correct this failure. Yet one year has passed and to our knowledge only a single case of alleged ill-treatment has reached the court, despite numerous allegations of abuse, with little information provided to the public,” said Melissa Upreti, ICJ Regional Director for Asia and the Pacific.

The first case under the Act was submitted to the Criminal Court for Corruption and Misconduct Cases, Region V, on 27 December 2023. It involved a military conscript who died from septicemia following reports of sickness and injuries sustained during a training exercise. The public prosecutor indicted two military trainers for committing cruel, inhuman, or degrading treatment or punishment under Article 6 of the Act.

According to the Ministry of Justice, as of November 2023, since the Act came into force, there had been 57 complaints involving 27 allegations of torture, six allegations of enforced disappearance, and 24 allegations of ill-treatment falling short of torture, with investigations ceasing in 4 cases and 53 cases pending. No reports have been made available to the public regarding the nature of these cases or their prosecution under the Act.

The recognition of enforced disappearance as a continuous crime

One consequence of the [continuing character of enforced disappearance](#), as recognized under Article 7 of the Act, is that it is possible to prosecute someone for enforced disappearance based on a legal instrument enacted after the disappearance began, since the crimes continue as long as an alleged victim’s fate or whereabouts remain unclarified.

Yet while the Act recognizes enforced disappearance as a continuous crime, very little information has been shared with the public or communicated to the families of victims in

cases that occurred before the enactment of this law, where the fate and whereabouts of victims remain unknown.

Between 1980 and August 2023, the UN Working Group on Enforced or Involuntary Disappearances [recorded and transmitted](#) 93 cases of alleged enforced disappearance to Thailand. Currently, 77 of these cases remain unresolved.

Preventive measures

A year since its enactment, certain preventive measures have been introduced, including in the form of a [regulation](#) by the Committee on the Prevention and Suppression of Torture and Enforced Disappearance. This regulation includes provisions governing the audio and video recording of an arrest and while in custody until individuals are handed over to the inquiry officer or released, as well as procedures for informing the public prosecutors and administrative officers about the arrest and the required information that must be recorded during an arrest.

"Despite this small progress, there has been reported non-compliance among certain authorities, which must be addressed as a matter of high priority by increased training and strengthening the monitoring role of the Committee to ensure effective implementation of the law and its regulations," said Upreti.

Civil society organizations have reported instances where law enforcement officers conducted arrests without audio and video recording, or have sought consent from arrested individuals to delete video and audio records, in violation of the regulation.

Another regulation is currently being considered by the Committee to provide a framework for effective remedies, including compensation and other forms of reparation. The ICJ has called for its finalization in full compliance with Thailand's international human rights obligations, following consultations with affected groups and victims, to ensure effective access to appropriate remedies.

Becoming a party to other treaties

"Thailand should further commit to international human rights standards protecting against torture, ill-treatment, and enforced disappearance, including by immediately ratifying the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) without reservations and acceding to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT)," added Upreti.

Thailand signed the ICPPED on 9 January 2012. On 10 March 2017, the then National Legislative Assembly voted in favor of ratifying the ICPPED. However, Thailand's Ministry of Foreign Affairs informed the ICJ that ratification of the ICPPED would be [delayed](#) until domestic legislation was enacted to give effect to the treaty, a process that has already been completed.

Thailand has repeatedly reiterated its commitment, including during the [third cycle of the Universal Periodic Review](#) in 2021, by accepting recommendations regarding the ratification of the ICPPED and the OP-CAT by the UN Human Rights Council.

The OP-CAT would require Thailand to allow visits to places where people are deprived of liberty by the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and to establish the national preventive mechanisms to make such visits.

Further reading

[Thailand: Law to address torture and enforced disappearance is an important step toward justice but its full enforcement is critical](#)

The ICJ and Amnesty International's analysis of the existing shortcomings of the Act can be found here in [English](#) and [Thai](#).

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