

THAILAND

NGO assessment of the follow-up actions of the State party in implementing UN Human Rights Committee's recommendations

Name of assessing NGOs:

Cross Cultural Foundation (CrCF)

Duayjai Group

Patani Human Rights Organization (HAP)

Fairly Tell Group

8 March 2018

The **2nd periodic report of Thailand** on the State's compliance with the International Covenant on Civil and Political Rights (ICCPR) was **reviewed by the UN Human Rights Committee** (the Committee) at the Committee's 119th session in **March 2017**. As the result of the review, the Committee issued its Concluding Observations (CCPR/C/THA/CO/2) with a number of recommendations to the State party. The Committee's Concluding Observations also states in paragraph 46 that "In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, **the State party is requested to provide, within one year of the adoption of the present concluding observations, information on the implementation of the recommendations made by the Committee in paragraphs 8 (constitution and legal framework), 22 (extrajudicial killings, enforced disappearances and torture) and 34 (conditions of detention)**".

The recommendations made in these three paragraphs are selected by the Committee for its follow-up procedure ("**follow-up recommendations**"), as they are **implementable within a year** and/or **require immediate attention**.

Information provided by the State party on the implementation of the follow-up recommendations (**due in March 2018**) will be further assessed by the Committee, whereby grades are also given to the action / reply of the State party (see the grades and criteria of the HR Committee at the end of this document).

This assessment form was developed by the Centre for Civil and Political Rights (CCPR) in order to facilitate civil society assessment of the implementation of follow-up recommendations by the State party and more effectively contribute to the Committee's follow-up procedure.

THAILAND: NGO assessment of the implementation of follow-up recommendations – with the support of Centre for Civil and Political Rights (CCPR)

Participating Organisations:

Cross Cultural Foundation (CrCF), Duayjai Group, Patani Human Rights Organization (HAP), and their local partner organizations

Since 2012, CrCF together with Duayjai Group and the Patani Human Rights Organization (HAP) have been documenting torture and ill treatment in Thailand by using the Istanbul Protocol proxy questionnaire. Previously, CrCF has taken the lead in submitting shadow reports to various UN human rights bodies (UPR 2011, CRC 2011 CERD 2012, as well as the Committee for Convention against Torture (CAT-for 2013/2014), and submitted complaints to the UN Special Rapporteur on Torture and the UN Working Group on Enforced or Involuntary Disappearances. Furthermore, CrCF has cooperated on various occasions with the Office of the United Nations High Commissioner for Human Rights (OHCHR) in organizing and conducting trainings and workshops for Thai human rights organizations.

Fairly Tell Group

Fairy Tell Group was founded by a former political prisoner with the intention to provide a safe and empowering community to former female inmates .They also conduct advocacy to raise awareness of the difficulties such as integration in society and post-release trauma, faced by the former inmates after imprisonment. In 2017, the Fairly Tell Group collaborated with Siswalk Sistalk¹ on a one-year project, to highlight the importance of female inmates' basic psychological needs for their self-worth. The groups collected lipsticks through a donation and gave them to three different prisons. Namely, Central Women's Correctional Institute, Khon Kaen Provincial Kaen Provincial Prison and Trad Provincial Prison . The outcome of this project is the acknowledgement of the female inmates' humanity, dignity and functionality as a human being. It's also helped reducing their stress relatively.

¹ A blogger who campaigns to raise awareness of the female inmates' well-being: <https://siswalksistalk.wordpress.com/>

Constitutional and legal framework:

Para. 7. The Committee is concerned about certain provisions of the interim Constitution of 2014, such as those in sections 44, 47 and 48, and the order issued by the National Council for Peace and Order under section 44, which limit access to effective remedies and may lead to immunity of the National Council for Peace and Order for serious human rights violations. It is particularly concerned about section 44, which has often been used to issue orders restricting rights under the Covenant. It is also concerned about section 279 of the new draft Constitution, which would continue to provide immunity to the National Council for Peace and Order for its acts, announcements and orders (art. 2).

Recommendation of the HR Committee (para. 8)	Action taken by the State	(Further) measures required / other comments
<p>The State party should review all measures adopted under the interim Constitution of 2014, in particular under sections 44, 47 and 48, in the light of its obligations under the Covenant;</p>	<p>Since the review of Thailand by the HR Committee in March 2017, 40 NCPO orders have been newly issued under Section 44 of the Interim Constitution. All the NCPO orders prior the review are still in place, including the Head of NCPO order 3/2015 that bans political gatherings. On 22 December 2017, the Head of NCPO issued order 53/2017 amending Articles 140, 141 and 142 of the Organic Act on Political Parties, B.E. 2560 and stipulating that order 3/2015 is still in force, hence any kind of political activities are still prohibited for the time being.</p> <p>Furthermore, there are no independent and efficient mechanisms to review the enforcement of Section 44 because the provisions in Section 47 and 48 deem NCPO orders as constitutional, lawful, and final and exempts officials and NCPO members from any criminal liability. Transparency is absent.</p>	<p>The preservation of the NCPO orders since the coup in 2014 and the frequent enactment of new orders by virtue of Section 44, conveys that the NCPO has no intention to revoke or amend this provision, which could also be confirmed by the statement of the Deputy Prime Minister².</p> <p>On 19 January 2018, the military-appointed National Legislative Assembly (NLA) approved the suspension of the organic law concerning member of parliament and senators after the majority voted for the law to come into force 90 days after it is published in the Royal Gazette. Initially, the law would be effective the day after it is passed and published in the Royal Gazette. Thus, the election has been again delayed as the organic laws may not be enacted in time.³</p>
<p>(The State party should) make sure that all measures to be adopted under the new draft Constitution, including section 279, will be consistent with its obligations under the Covenant, including the obligation to provide effective remedies to victims of human rights violations.</p>	<p>There are no independent mechanisms to scrutinize the enforcement of the new Constitution, which was promulgated in April 2017, and the NCPO orders and announcement are still being issued on a regular basis.</p> <p>Since the Section 279 stipulates that all the NCPO orders and announcements issued prior to the date of promulgation of the 2017 Constitution, are considered constitutional, final and lawful, the orders and announcements including the problematic ones such as no. 3/2015 no.3/2559, no.13/2559, and no.5/2560 which</p>	<p>Fundamental rights such as freedoms of expression including press freedom, peaceful assembly and association are heavily restricted, which obstruct the work of human rights defenders/activists, academicians, lawyers and CSOs to review and report on human rights violations. Human rights defenders, journalists and political critics have been facing intimidations, threats, and multiple civil and criminal lawsuits especially criminal defamation charges for engaging in peaceful activism. Victims of such intimidation and threats have not been provided with any effective remedies. Thai</p>

² Krungthep Turakij Online, "Section 44 will remain in place, until the new government repeal it, 8 April 2017, <http://www.bangkokbiznews.com/news/detail/749259>, accessed on 27 February 2018."

³ iLaw, *The NLA found new techniques to extend the time for enforcement of the parliament election legislations. Postponing the lection with 90 days*, <https://ilaw.or.th/node/4729> accessed on 18 February, 2018

	<p>allow military officers to detain any person for questioning up to 7 days, still remain in force. The NCPO Announcement No.97/2557, 103/2557 prohibits media and individuals from expressing opinions or reporting on information deems undermining national security or critical of the NCPO administration. The NCPO orders and announcements can only be nullified by the enactment of new Acts.⁴ For now, the NCPO is seemingly not inclined to review any of the orders or announcements.⁵</p>	<p>authorities should drop all criminal proceedings against human rights defenders, journalists and political critics, investigate cases of threats, intimidations and attacks against them with the view to bring perpetrators to justice, and to create a safe and enabling environment to empower the work of HRDs, must immediately stop arbitrary application of criminal defamation charges against HRDs.</p>
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⁴ iLaw, "What is the difference between the NCPO announcements, the NCPO orders and the head of NCPO orders?" <https://ilaw.or.th/node/4690>, accessed 18 February 2018

⁵ Krungthep Turakij Online, "Section 44 will remain in place, until the new government repeal it, 8 April 2017, <http://www.bangkokbiznews.com/news/detail/749259>, accessed on 27 February 2018."

Extra-judicial killings, enforced disappearances and torture:

Para. 21. The Committee is particularly concerned about reports of torture and other ill-treatment, extrajudicial executions and enforced disappearances against, inter alia, human rights defenders, including in the context of the southern border provinces. The Committee remains concerned about widespread impunity for those crimes and the slow progress in investigating such cases, including cases of the shooting of civilians during the political violence of 2010, the enforced disappearances of Somchai Neelapaijit and Porlajee “Billy” Rakchongcharoen and the torture endured by Kritsuda Khunasen (arts. 2, 6, 7, 9, 10 and 16).

Recommendation of the HR Committee (para. 22)	Action taken by the State	(Further) measures required / other comments
<p>The State party should: (a) <i>Ensure that cases are reported and that prompt, impartial and thorough investigations are carried out into all allegations and complaints concerning the unlawful and excessive use of force by law enforcement officials and the military, including torture, enforced disappearances and extrajudicial killings, including in the context of the southern border provinces;</i></p>	<p>In March 2017, the NLA rejected to enact the bill to criminalise torture and enforced disappearance claiming that all relevant stakeholders have not been consulted.⁶ The Department of Rights and Liberties Protection (DRLP) stated that it has finished the bill amendment and will conduct additional consultation meetings with stakeholders.</p> <p>Government has set up an Interim Mechanism for Torture and Enforced Disappearances Complaint Management Committee with mandates to follow-up on allegations of torture and disappearance, in May 2017 by the Prime Minister’s Order No.131 /2560, chaired by Minister of justice. It has only one representative from civil society organization in the Committee. It is however still not clear on what are the core responsibilities of this Committee. Reportedly, the Committee’s functions are focusing on three main tasks such as; legislation, remedy, and establishment of preventive measures. But it will not investigate cases of torture and enforced disappearance since 2007 meaning that the case of Somchai Neelapaijit will not be included in the mandate of the Committee.⁷</p>	<p>Between 2016-2017 there were 60 cases of torture allegations documented by Cross Cultural Foundation and its local partner organizations through the operation of fact-finding interviews with former detainees and family members of detainees.</p> <p>Since the last ICCPR review in March 2017, there have been six cases of extrajudicial killings documented in southern border provinces. There are a number of challenges to bring the cases to the court because it is difficult to prove that the executions have occurred. Furthermore, the family members of the victims are reluctant to rely on the justice system and provide information for further legal prosecutions.⁸</p> <p>Independent inquests of the cases of torture, extrajudicial killings and enforced disappearances is crucially lacking.</p> <p>Thorough and transparent investigations into the suspected case of torture and extrajudicial killings are also absent. For instance, the case in 2017 of Phakhapong Tanyakan, an 18-year-old military student who died under mysterious circumstances at the Armed Forces Academies Preparatory School. So far, his family has yet to receive the truth about the death of their son.</p>
<p>(The State party should: (a)...) </p>	<p>Due to the lack of domestic legislations or any specific</p>	<p>The documentation by CrCF reports that there has not been any</p>

⁶ BBC Thai, “NLA Responded to UN Disappointment Statement on its Decision to Reject Bill on Enforced Disappearance,” March 1, 2017, <http://www.bbc.com/thai/thailand-39127371>, accessed on 27 February 2018.

⁷ Ms.Naleeruc Paechaiyaphum, representative of the Department of Rights and Liberty Protection, Ministry of Justice stated at the public forum on International Day of Enforced Disappearance organized by Amnesty International on 30th August 2017 in Bangkok that the Committee to Receive Complaints and Investigation Allegations of Torture and Enforced Disappearance would investigate the cases of torture and enforced disappearance that happened since 2007, thus it would not include Somchai Neelapaijit case., <https://prachatai.com/journal/2017/08/73036> accessed on 27 February 2018.

⁸ Duayjai Group and HAP, Report on Monitory and Fact Finding on the Situation in the Deep South of Thailand 2016-2017, Unpublished

<p>ensure that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions;</p>	<p>mechanisms for the protection of victims of enforced disappearances and torture, criminal prosecution of perpetrators has been obstructed and the government fails to bring justice to the victims and their families.⁹</p>	<p>progress on the following cases:</p> <ul style="list-style-type: none"> - Wichien Puaksom, a 26-year-old military draftee who was allegedly tortured and suffered fatal injuries, following a punishment during the military training in Narathiwat Ratchanakarin Army Camp in 2011. His family filed criminal complaint with the police which was investigated by the Office of Public Sector Anti-Corruption Commission (PACC) because the suspects are military officers holding ranks below the top executive level.¹⁰ In 2016, the PACC announced that ten military suspects involved in his case are found violating Section 157 of the Criminal Code and Section 30 (4) of the Military Criminal Code. The investigation is still pending before military prosecutor. In February 2014, his family reached a settlement with the Royal Thai Army in a civil infringement lawsuit for his death demanding a compensation of 7 million Baht (US\$ 223 149). However, Narissarawan Kaewnopparat, his niece who speaks out for accountability of his death was arrested and facing criminal prosecution on criminal defamation and computer crimes charges filed by a military officer allegedly involved in Wichien’s death. Her case is pending for a final decision from the Attorney General Office. - Somchai Si-Ueangdoi, a military private allegedly was tortured by three soldiers at Kawila Military Camp in Chiang mai - Kittikorn Sutthiraphan, a military officer was subjected to torture and severe ill-treatment by the wardens of the 25th Military Circle’s prison - Ritthirong Chuenchit who was tortured by police officers
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⁹ Currently, CrCF provides legal assistance to 10 cases of alleged torture and extrajudicial killings nationwide and none of the cases has successfully brought the perpetrators to justice. Article 4 of the Organic Act on Counter Corruption B.E. 2542 (1999) and its 2011 amendments any state officials (*including military officers or police officers*) or *political officials*, local administrative officials and executives who hold the ranking from the top executive level and allegedly involving in misconduct is under the jurisdiction of the National Anti-Corruption Commission (NACC).

¹⁰ Article 3 of the Executive Measures in Anti-Corruption Act B.E. 2551 (2008) stated that any state officials (*including military officers or police officers*), who hold the ranking below the top executive level and allegedly involving in misconduct is under the jurisdiction of the Office of Public Section Anti-Corruption Commission.

		<p>during an interrogation. On 13 February 2018, the court decided to postpone the examinations of the defendants' witnesses which initially were scheduled on 13-16 February 2018, to 4 April due to that the defendants had questioned the court's jurisdiction. This further delayed the process of prosecution.</p> <p>The Thai government must put end to the culture of impunity and conduct an impartial, independent and thorough investigation into the alleged violations with the view to bring perpetrators accountable Thai authorities should provide protection and ensure safety of the victims or the victims' family.</p>
<p>(The State party should:) (b) Provide the truth about the circumstances of those crimes and, in cases of enforced disappearances, clarify the fate or whereabouts of the victims and ensure that their relatives are informed about the progress and the results of investigations;</p>	<p>None of the 82 cases reported to the UN Working Group on Enforced Disappearances (WGED), including the two prominent cases of the missing human rights lawyer Somchai Neelapaijit and Porlachi Billy Rakchongcharoen, has been clarified to the public or the family of the victims. The fate of the disappeared is still unknown. Whereas Den Kamlae, the land rights activist who went missing in 2016, has been declared dead. The aforementioned 82 cases of enforced disappearances are still under the review of the Rights and Liberties Department of Ministry of Justice. Nevertheless, the details of the cases have not been revealed to the public.</p> <p>Department of Special Investigation (DSI)'s investigation into the enforced disappearances of Somchai Neelapaijit and Porlachi Rakchongcharoen has been repeatedly retarded and lack of progress shows there is no willingness in the authority to solve these cases. Family members have been continuously denied access to truth and justice, while four police official allegedly involved in Mr. Neelapaijit's disappearance were promoted to higher position.¹¹</p>	<p>None of the extrajudicial killings cases in the southern border provinces has undergone autopsy because of lacking independent forensic physicians in Thailand. The other as substantial hindrance is that autopsy cannot be executed due to the Islamic belief which requires body to be buried within 24 hours.¹²</p> <p>The Thai government should ensure independent, impartial and effective investigation is carried out in the cases of torture, enforced disappearances and extrajudicial killings in order to provide the truth and bring the perpetrators to justice.</p>
<p>(The State party should:) (c) Ensure that the victims are</p>	<p>Since the coup, there has been only one case of financial</p>	<p>The psychological health of the victims is not prioritized by the</p>

¹¹ Online Communications with family members of Somchai Neelapaijit and Porlachi Billy Rakchongcharoen, 23 January 2018.

¹² Patchara Sinloyma, *The Development of Forensic Process Model for Criminal Investigation in Three Southern Border Provinces of Thailand*, October 2014, *Sociology Study*, Vol.4, No.10, 839-843

<p>provided with full reparation, including satisfaction and guarantees of non-repetition;</p>	<p>compensation reportedly provided to the victims in the southern borders provinces, though the resolution approved at the meeting of the Southern Border Provinces Strategic Development Committee, chaired by the vice Prime Minister on 11 October 2017. The compensation of 17 million Baht (US\$ 541 916) would reportedly be given to 17 victims who were exposed to any kind of human rights abuses committed by the governmental officers in relation to the insurgency in the southern border provinces in 2012. Education fund of 4,621,000 Baht (US\$ 147 306) would be offered to 9 families as well.¹³</p>	<p>government or other health care institutes. Hence, there is critical shortage of accessible psychological remedies, especially in the southern border provinces of Thailand, as well as social assistance and services that empower the victims and their family after they have been exposed to human rights violations such as torture.¹⁴</p> <p>A thorough psychological health assessment of the victims should be carried out in order to customize a continuous support program that helps the victims to recover.</p> <p>It is difficult to keep track of the cases that have been provided with reparation, let alone the requests that have been submitted to relevant institutions such as the National Human Rights Commission of Thailand. The difficulty is the result of deficient resources to set up monitoring mechanisms.</p>
<p>(The State party should:) (d) Amend the Martial Law Act, Emergency Decree and Order 3/2015 to ensure that they comply with all the provisions of the Covenant, including with the guarantees against incommunicado detention enumerated in the Committee's general comment No. 35 (2014) on liberty and security of person;</p>	<p>The enforcement of Martial Law and Emergency Decree in the Southern border provinces region remains a crucial concern. None of the provisions has been amended since the review of Thailand by the HR Committee in March 2017. Despite the Martial Law has been lifted in most parts of the regions, it is still strictly enforced to counteract the prolonged conflict.</p> <p>Article 8 of the Martial Law has been used excessively in the Southern border provinces. The mentioned article allows the officer to arrest and detain the suspects for seven days without legal representatives and incommunicado.</p>	<p>Currently, there is no effective mechanism to investigate and monitor the situation of human rights violations in the conflict region. The excessive use of Martial Law and Emergency Decree continues without independent review by third party.</p> <p>The relevant governmental institutions shall respect and act in accordance with the international human rights conventions Thailand has ratified, even under emergency circumstances. The perpetrators should be punished regardless they are governmental officers.</p>
<p>(The State party should: (d)...) amend criteria with a view to lifting the Martial Law and Emergency Decree in the provinces currently under them without undue delay;</p>	<p>At the time of writing, the Thai government appears that it has no intention to amend the criteria or lift the Martial Law in the Southern border provinces. On the contrary, on 19 December 2017, the Cabinet extended the enforcement of the Emergency Decree in southern border provinces for the 50th time.</p>	<p>Currently, the arbitrary enforcement of the Martial law, Emergency Decree and special laws in the Southern border provinces cannot be scrutinized by the public.</p> <p>Thai Government should immediately review and repeal its prolonged enforcement of the Martial Law, the Emergency Decree and special security laws to be in line with international human rights standards.</p>
<p>(The State party should:) (e) Promptly set up an</p>	<p>The Draft Prevention and Suppression of Torture and Enforced</p>	<p>There is still a crucial lack of political willingness to set up</p>

¹³ Royal Thai Government Newsletter, <http://www.thaigov.go.th/news/contents/details/7326>, accessed 19 February 2018

¹⁴ HAP, internal report for UN Voluntary Fund for Victims of Torture, 2017

<p>independent mechanism for the prevention and suppression of torture and enforced disappearances;</p>	<p>Disappearance Act is under review by the Ministry of Justice after it was returned for further consultations to the Cabinet by the National Legislative Assembly in March 2017.</p> <p>A joint fact-finding committee was appointed by the Internal Security Operation Command Region 4 (ISOC4), in October 2017, to monitor and review the reports on human rights violations in the Southern border provinces. The committee consists of representatives of ISOC4 and civil society organizations. It was initiated right after the withdrawal of lawsuits against the three human rights defenders (so called “SPA case”,¹⁵ who released a report on torture allegations in 2016. Yet there has not been any progress on this collaboration despite the two meetings held in September and December 2017.</p> <p>On 7 March 2017, the ISOC 4 announced the withdrawal of Criminal defamation lawsuits against three human rights defenders (SPA cases). Subsequently, the case was officially terminated on 14 September 2017.</p>	<p>independent and efficient mechanisms to prevent torture and enforced disappearances. Thai authorities should end all criminal proceedings against civil society groups and others, who report on torture allegations. On 14 February 2018, the legal officer of ISOC 4 filed a complaint against Mr. Ismael Teh, the founder of Patani Human Rights Organization (HAP) concerning his interview about torture allegation in a TV program on 5 February 2018. Ismael was a victim of torture while he was detained at the Inkayuthborihan Army Camp, in Pattani Province in 2008.¹⁶ Additionally, ISOC4 filed a civil defamation complaint demanding 10 million Baht (US\$ 286,000) compensation from MGR Online news website which reported about Ismael’s case. This judicial harassment has been creating a chilling effect on civil society groups and journalists working on human rights promotion and protection.¹⁷</p>
<p>(The State party should:) (f) Reinforce the training of law enforcement officials and military personnel on full respect for human rights, including on the appropriate use of force and on the eradication of torture and ill-treatment, ensuring that all training materials are in line with the Covenant and the</p>	<p>The Department of Rights and Liberties Protection (DRLP) of the Ministry of Justice (MoJ) in the South has reportedly collaborated with other governmental sectors, such as Department of Corrections (DoC), Ministry of Social Development and Human Security, and National Human Rights Commission of Thailand, to provide workshops on education of international human rights laws for the governmental officers i.e. ISOC 4, who operate in the South on a monthly basis.¹⁸ However, there is no systematic</p>	<p>The Thai government has yet to meaningfully fulfil its legal obligations under CAT to eradicate torture and ill-treatment as long as the anti-torture legislations are still absent. Human rights activists, CSOs and family members of the victims who are seeking the truth and justice, are faced with reprisals in the form of cyber harassment, defamatory, false, and intimidating statements, hate speech, and defamation lawsuits. This has created a hideous and unsafe work environment for them, whereas the Thai government</p>

¹⁵ SPA Case refers to the three human rights defenders, Somchai Homla-or, Porpen Khongkachonkiet and Anchana Heemmina, who were charged with criminal defamation and breach of the 2007 Computer Crime Act due to the report of torture allegations in the southern border provinces released in 2016.

¹⁶ Cross Cultural Foundation, “Statement Concerning the 4th Army Commander Filing Case against Ismaael The,” 15 February 2018, <https://voicefromthais.wordpress.com/2018/02/16/statement-concerning-the-4th-army-commander-filing-case-against-ismaael-teh/>

¹⁷ Joint Statement, “ISOC complaint against the Manager Online must be dropped: News report on an alleged act of torture is not a crime,” 9 February 2018, <https://voicefromthais.wordpress.com/2018/02/10/isoc-complaint-against-the-manager-online-must-be-dropped-news-report-on-an-alleged-act-of-torture-is-not-a-crime/>

¹⁸ Rights and Liberties Protection Department website <http://www.rlpd.go.th/rlpdnew/> accessed 27 February 2018

United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.	reporting mechanism available on the progress of the officers operation in the region, whether the law enforcement has been improved or not. The credible assessment mechanism of officers' knowledge and understanding of human rights are yet to be developed..	has publicly announced human rights protection a national agenda on 12 February 2018. ¹⁹
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¹⁹ National News Bureau of Thailand, *“PM put human rights protection on national agenda,”* 12 February 2018, http://thainews.prd.go.th/website_en/news/news_detail/WNOHT6102120010005 accessed on 27 February 2018.

Conditions of detention:

Para. 33. The Committee remains concerned about the high levels of overcrowding and poor conditions in many places of detention, including poor sanitation and hygiene conditions, lack of access to health care, lack of adequate food and water and the stigmatization of certain detainees. It is also concerned about reports of excessive use of restraining devices, such as shackles, and sexual harassment (arts 7 and 10).

Recommendation of the HR Committee (para. 34)	Action taken by the State	(Further) measures required / other comments
<p>The State party should continue to strengthen its efforts to improve conditions of detention by taking practical measures to reduce overcrowding, particularly by promoting alternatives to detention;</p>	<p>Since the ICCPR review in March 2017, the number of prison population in Thailand has increased by 44 %²⁰, while drug-related offences accounted for 75.19 %.²¹ It strongly implies that no effective measures have been taken to address the issues of overcrowding. The detention facilities remain poorly operated and the deplorable living conditions continue to be problematic.</p> <p>In February 2017, Ministry of Justice implemented the risk assessment system of provisional release by the Court without bail, as a measure to reduce overcrowding and to narrow the gap between the wealthy accused and the poor accused who cannot afford to post bail. The selected five courts for this pilot project were Southern Bangkok Criminal Court, Chantaburi Provincial Court, Nakhon Srithammarat Provincial Court, Galasin Provincial Court and Chiang Mai Provincial Court. To be eligible for the application of provisional release the accused must not have a prison sentence exceeding 5 years or committed serious offences.²² The progress of this project is yet to be published and the number of the accused who have been released has yet to be revealed.</p>	<p>There is reportedly still no segregation between the convicted inmates and pre and pending trial detainees. It is a result of poor prison management and overcrowded facilities, which have long been plaguing the Thai prison system. The unsolved overcrowding problems have negative effects on the inmates' overall life quality which includes both mental and physical health. The infectious diseases such as tuberculosis, respiratory diseases and skin infections are common among the inmates and can be rapidly contagious and the access to adequate medical treatment is nearly out of reach.</p> <p>Between 2016-2017, Duayjai Group and HAP conducted a report to monitor the situation of human rights violations in connection with the insurgency in the Deep South of Thailand.²³ The report reveals that in cases of detention under the special security laws, visiting a detainee is sometimes allowed for one minute per visit. This has a hugely negative impact on detainees' mental state in terms of stress and depression. Also, during the detention, detainees are repeatedly questioned without presence of a legal representative.</p>
<p>(The State party should) increase efforts to guarantee the right of detainees to be</p>	<p>Due to the harsh conditions in prison facilities, it is difficult for the inmates to maintain their willingness to function as human</p>	<p>According to testimonies given to the Fairly Tell Group by an inmate at Trad Provincial Prison, a new rule has been introduced</p>

²⁰ Department of Corrections, Statistics of incarcerated persons nationwide, 1 April 2017 and 1 February 2018 <http://www.correct.go.th/stat102/display/>

²¹ Department of Corrections, Statistics of convicted by offences, 1 February 2018, <http://www.correct.go.th/rtnew103/filepdf/1519287979.pdf>

²² Thai Publica, The Court introduced the provisional release pilot project in 5 provinces. Noting that the system of buying freedom and "prisons are for poor people" must be diminished, <https://thaipublica.org/2017/02/temporary-release-model/>, accessed 26 February 2018

²³ Duayjai Group and HAP, Report on Monitory and Fact Finding on the Situation in the Deep South of Thailand 2016-2017, Unpublished

<p>treated with humanity and dignity;</p>	<p>beings. Therefore, it is crucially important that the inmates' humanity and dignity are recognized and their basic needs such as hygiene and sanitary products, medical treatments, nutritious food, are provided for.</p> <p>Thailand continues to arrest and detain asylum seekers, migrants and refugees based on their legal status. Conditions in immigration detention centers are dire with overcrowding, lack of hygiene, with limited access to food and healthcare. On 20 November 2017, at least 20 Uighur asylum seekers, who were detained in Songkhla immigration detention center since 2015, escaped from the facility and reportedly fled to Malaysia.²⁴</p> <p>On 2 November, 2017, Zainab Bi Bi, a 16-year-old Rohingya refugee, died from bleeding in her brain and an alleged blood-clotting disorder, which results in easy or excessive bruising and bleeding, after spending more than three years indefinitely detained in immigration detention facilities and government-run shelters.²⁵ At least 3 detainees died in Bangkok's Suan Plu IDC this year.</p>	<p>that cuts down the number of visitors to solely 5 visitors per inmate per month and they must have the same last name.²⁶ This has substantially caused stress for inmates, especially those with higher sentence. Yet it is not confirmed whether the restriction has been introduced nationwide.</p> <p>Particular attention is required for pregnant inmates, as they are not allowed bail regardless they are eight or nine month pregnant. There have been reportedly a number of female inmates having given birth in a detention facility and not at a hospital. It is extremely unsafe for the children because the medical care room in detention facility is poorly equipped.²⁷</p> <p>Since the installation of body scanners has yet to be implemented nationwide, strip search is reportedly still proceeded to look for contraband items when female inmates entering or leaving the detention facility for trial at the court, or just to the visiting area. The procedure is performed unduly and without hygiene considerations.²⁸ The Thai prison officials should immediately end practices deemed as degrading treatments against detainees and install body scanners at all detention facilities as deemed necessary and promote the appropriate conduction of body search with respect to the inmates' dignity and humanity.</p>
<p>(The State party should) ensure that conditions of detention in all of the country's prisons are compatible with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela</p>	<p>On 18 July 2017, the Department of Corrections together with Thailand Institute of Justice (TIJ) announced a scheme to implement the Nelson Mandela Rules in practice by having Thonburi Remand Prison as a pilot project. The objective was to improve the standards in compliance with the Nelson Mandela Rules by 2019 under the assessment of <i>Assessing Compliance</i></p>	<p>The Thai government should introduce Mandela Rules as official rules or incorporate them into domestic regulations, and set up a mechanism to monitor its implementation, while also allowing independent and regular inspection visit by third party including civil society groups.</p>

²⁴ Reuters, "Twenty Chinese Uighurs use blanket to escape Thai cell," 20 November 2017, <https://www.reuters.com/article/us-thailand-uighurs/twenty-chinese-uighurs-use-blankets-to-escape-thai-cell-idUSKBN1DK0MM>, accessed 27 February 2018.

²⁵ "Thailand: Investigate Death of Rohingya Girl in Immigration Detention Centre," Fortify Rights, 10 November, 2017, <http://www.fortifyrights.org/publication-20171110.html>, accessed on 27 February, 2018.

²⁶ FairlyTell Group interview with a relative of a female inmate (name withheld), age 48, at Trad Provincial, Trad Province, Thailand on 9 February 2018

²⁷ The Central Correctional Hospital, the Issue of Pregnancy, https://www.hosdoc.com/index.php?option=com_content&view=article&id=50:problem-pregnancy&catid=2:guide-prison, accessed 27 February 2018.

²⁸ Voice TV, Talk with 4 women who have been in prison during the regime of the NCPO, <https://www.voicetv.co.th/read/468315>, accessed 27 February 2018

Rules).	<i>with the Nelson Mandela Rules: A Checklist for Internal Inspection Mechanisms.</i> ²⁹ However, there has not been any update of the progress available to public, neither the information in which parts the prison is already following Nelson Mandera Rules..	
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²⁹ Thailand Institute of Justice, Announcing to be the first one in the world to implement the Mandela Rules, <http://www.tijthailand.org/main/th/content/553.html>, accessed 25 February 2018



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