



## THAILAND

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**Joint submission prepared by:**

**FIDH - International Federation for Human Rights**

*and*

**Union for Civil Liberty (UCL)**

The **International Federation for Human Rights (FIDH)** is an international human rights NGO that unites 192 member organizations from 117 countries. Since its foundation in 1922, FIDH has been defending all civil, political, economic, social, and cultural rights set out in the Universal Declaration of Human Rights (UDHR).

Founded in 1973, the **Union for Civil Liberty (UCL)** has been the first human rights organization in Thailand to advocate, promote, and protect human rights and democracy. UCL focuses on the reform of Thailand's criminal justice system, protection of human rights defenders, and the abolition of death penalty.

The FIDH-UCL joint Universal Periodic Review (UPR) submission focuses on developments related to the death penalty and prison conditions in Thailand since the country's second UPR in May 2016 and makes recommendations to Thailand's government to make progress towards the abolition of the death penalty and for the improvement of prison conditions. Information presented in this submission has been collected from first-hand information, government websites, official documents, and verified media reports.

## **No progress towards the abolition of the death penalty amid the resumption of executions**

1. During its second UPR, Thailand failed to make progress towards the abolition of the death penalty.
2. During Thailand's second UPR, the Thai government pledged to commute death sentences and review the imposition of the death penalty for drug-related offenses, but did not accept 12 recommendations that either called for the abolition of capital punishment or encompassed measures aimed at making progress towards that goal. The recommendations included: the establishment of a moratorium on all executions; the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR); and the removal of economic crimes from the list of offenses punishable by death. The government said it would consider these recommendations "in subsequent UPR cycles."
3. During its second UPR, Thailand resumed executions. On 18 June 2018, Theerasak Longji, 26, was executed by lethal injection at an unspecified location. Mr. Theerasak was found guilty of a premeditated murder he had committed in Trang on 17 July 2012. Theerasak always maintained he had not committed the crime.<sup>1</sup>
4. Thailand would have achieved the status of *de facto* abolitionist, had it not carried out any executions before 24 August 2019. Prior to Mr. Theerasak's execution, Thailand's last execution was carried out on 24 August 2009, when two men, Budit Jaroenwanit, 45, and Jirawat Poompreuk, 52, were put to death by lethal injection at Bang Khwang Prison in Nonthaburi Province.
5. On 19 December 2016, 17 December 2018, and 16 December 2020, Thailand abstained from voting on the biennial United Nations General Assembly (UNGA) resolution calling for a moratorium on the use of the death penalty.
6. On a positive note, official figures from Thailand's Department of Corrections showed a steady decline in the number of prisoners under death sentence during the second UPR cycle of Thailand. On 11 May 2016, there were 426 prisoners (368 men and 58 women) under death sentence. By 3 March 2021, the number had progressively decreased to 257 (228 men and 29 women). This 40% decrease is attributed to the number of commutations of death sentences under royal amnesties. During Thailand's second UPR cycle, there were commutations of sentences on special occasions, such as: King Rama X's coronation in May 2019; King Rama X's birthday in July 2020; and King Rama IX's birthday in December 2020.
7. Despite a reduction of the number of prisoners facing capital punishment, courts across Thailand continued to impose death sentences. Between January 2016 and December 2019, at least 340 people were sentenced to death. Although official figures are not publicly available, at least 216 death sentences were recorded in 2016, 75 in 2017, at least 33 in 2018, and at least 16 in 2019, according to information collected by Amnesty International.
8. Since Thailand's second UPR, there has been no effort to reduce the number of crimes subject to the death penalty. In fact, the number of capital crimes increased from 55 in 2014 to 63 in 2018. Crimes that are punishable by death include drug-

related offenses and economic offenses.

9. Drug-related offenses continued to represent a disproportionate share of the crimes for which a death sentence is imposed. According to Thailand's Department of Corrections, 58% of the men and 100% of the women who were under death sentences as of 3 March 2021 had been found guilty of drug-related offenses.
10. The existence of legislation that makes drug-related offenses punishable by death is inconsistent with Thailand's legal obligations under Article 6 of the ICCPR, which states that in countries that have not abolished the death penalty, death sentences "may be imposed only for the most serious crimes." The United Nations Human Rights Committee has repeatedly stressed that capital punishment for drug-related offenses does not comply with Article 6 of the ICCPR.
11. The government's previous commitments to make progress towards the abolition of the death penalty entirely disappeared during Thailand's second UPR cycle. In June 2017, Deputy Prime Minister Wissanu Krea-ngam, was quoted as saying that while Thailand would retain the death penalty "for the sake of effective crime deterrence," but that it was seeking to gradually convert capital punishment to life imprisonment or a prison sentence of up to 20 years.<sup>2</sup>
12. Government officials occasionally made public statements in support of the death penalty. For example, on 6 June 2016, Prime Minister Prayuth Chan-ocha ordered the legal community and the judiciary to ensure that convicted rapists would be sentenced to death.<sup>3</sup> Prayuth backtracked the following month, when he said he disagreed with calls for capital punishment for individuals convicted of rape and murder, following the rape and murder of a female teacher in Saraburi Province, which sparked a public uproar and netizens' calls for the imposition of the death penalty for rapists.<sup>4</sup>
13. Other officials publicly recognized the ineffectiveness of capital punishment to act as a deterrent against violent crimes and acknowledged that many convicts sentenced to death were the poor and underprivileged who could not afford a proper legal defense. However, they claimed the lack of progress towards abolition was justified by the public opinion's support for capital punishment.<sup>5</sup>
14. The position of successive Thai governments that public opinion is in favor retaining the death penalty has been consistently based on non-scientific opinion polls and surveys, in which respondents and the general public were not provided with relevant information to have an informed opinion on the issues related to the death penalty.
15. For example, in June 2018, following the execution of Theerasak Longji [See above, paragraph 3], four different opinion polls were conducted concerning the issue of the death penalty. In one online poll on the *Kom Chad Luek's* website, 92% of the approximately 2,300 respondents said they were in favor of capital punishment. In another poll conducted by *Nation TV*, 95% of the more than 20,000 votes were in favor of the death penalty.<sup>6</sup> A third poll, conducted among 1,123 people, found that 93.4% of the respondents supported imposing the death penalty for "cruel murderers."<sup>7</sup> A fourth poll, conducted by the National Institute for Development Administration among 1,251 people, found that 92% of the respondents were in

favor of retaining the death penalty. Seventy-nine percent believed the death penalty was a deterrent to crime, and 80% said they preferred the death penalty over life imprisonment for those convicted of serious crimes. However, only 2% of the respondents supported the imposition of the death penalty for drug offenses.<sup>8</sup>

#### **Recommendations to the government:**

- Abolish the death penalty for all crimes during the third UPR cycle.
- Immediately establish an official moratorium on executions.
- Immediately commute all death sentences to prison terms.
- Vote in favor of the next UNGA resolutions on a moratorium on the use of the death penalty.
- Significantly reduce the number of criminal offenses that can be punished by death.
- Remove the provision of capital punishment for all drug-related offenses.
- Ratify the Second Optional Protocol to the ICCPR during the third UPR cycle.

#### **Prison conditions remain below international standards amid ongoing overcrowding**

16. During Thailand's second UPR, the government accepted all four recommendations related to prison conditions, including one that called for the establishment of a policy to decrease the high levels of overcrowding.
17. Despite these commitments, prison conditions remained below international standards during Thailand's second UPR cycle. The ongoing failure by successive governments to enact comprehensive prison reforms created conditions for human rights violations to be rife in the prison system in breach of Thailand's obligations under international instruments to which it is a state party.
18. Overcrowding remained the most pressing issue in prisons, with an increase in the number of prisoners during the country's second UPR cycle. In June 2016, Thailand had a prison population of 264,779 inmates, according to official figures from the Department of Corrections. In May 2019, the number reached an all-time high of 386,902 inmates. As of 1 March 2021, the prison population stood at 311,605 inmates (273,657 men and 37,948 women) – an 18% increase since June 2016. The vast majority of prisoners (253,496 inmates or 81%) remained jailed for drug-related crimes.
19. In a concerning statement on 22 July 2019, Justice Minister Somsak Thepsuthin said he aimed at limiting the total number of inmates nationwide to around 370,000 – a level at which Thailand's prisons were already severely overcrowded.<sup>9</sup> Given the Thai prison system's official capacity for 123,000 inmates,<sup>10</sup> jails have been regularly operating well over their capacity.
20. In an attempt to downplay the issue of overcrowding, the authorities progressively lowered capacity measurement standards by reducing the space per person to less than one square meter.<sup>11</sup> An official from Samut Prakan Central prison, on the eastern outskirts of Bangkok, confirmed that an "area of one square meter must be allocated for a pair of inmates," and that prisoners had to "sleep diagonally."<sup>12</sup> This situation prompted Justice Minister Somsak Thepsuthin to say that such capacity measurements provided "less room for a body than the inside of a coffin."<sup>13</sup>

21. In late December 2019, the surveillance cameras at Lang Suan prison in Chumphon Province were hacked and footage showing inmates living in overcrowded conditions was posted online on YouTube.<sup>14</sup> In a puzzling response, Justice Minister Somsak Thepsuthin said the leaked footage damaged the reputation of Thai prisons and may have violated the rights of inmates.<sup>15</sup>
22. Aside from the granting of royal amnesties, the government failed to adopt any effective policy measures to decongest prisons and instead pursued a piecemeal approach in an attempt to address overcrowding in correctional facilities. In February 2020, it was reported that the government had approved a plan to expand the size of sleeping quarters in 93 of the country's 143 prisons.<sup>16</sup>
23. Timid attempts to implement non-custodial measures failed to reduce prison congestion. In April 2020, the Department of Corrections said that between October 2019 and March 2020, 7,890 prisoners were released as a result of a government's plan to suspend the sentences of certain categories of inmates.<sup>17</sup> However, during the same period of time, Thailand's prison population increased by more than 15,000 inmates.
24. Ongoing reports of deaths of prisoners raised concerns over the seriously inadequate detention conditions, as well as the neglect of prisoners by prison authorities. Between 29 December 2019 and 4 January 2020, four inmates died in Phitsanulok prison.<sup>18</sup> In early January 2020, Thai authorities initially attributed their death to toxic goiter caused by the consumption of contaminated food.<sup>19</sup> However, a subsequent statement by Department of Corrections' Director-General that reported that "the environment and food sanitation at the prison were up to safety standards" was in stark contrast to the Justice Minister's decision a few days later to transfer the Phitsanulok prison chief to the Department of Corrections for "negligence and bad management" in connection with the death of the four inmates.<sup>20</sup> The results of an investigation into the cause of death of the four were pending as of late January 2020.<sup>21</sup>
25. Between April and August 2018, a team from FIDH and UCL conducted visits to nine of the 12 correctional facilities that, as of December 2018, Thailand's Department of Corrections designated as "model" prisons for women.<sup>22</sup> The designation stemmed from the Department of Corrections' claim that these facilities had successfully implemented the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (also known as the "Bangkok Rules").
26. However, the result of observations conducted by FIDH and UCL during their visits revealed that conditions in these facilities were below international standards. At the time of the start of the FIDH/UCL visits (April 2018), the main issue of concern remained overcrowding. According to Department of Corrections statistics, eight of the nine "model prisons" visited by FIDH and UCL had occupancy levels above 100%, with a maximum of 652% in Thanyaburi Women's Penitentiary.<sup>23</sup>
27. Other important areas where deficiencies and challenges were observed in the nine prisons were: the quality of food; healthcare services, including with regard to mental health; prison labor conditions; contact with the outside world; and access to information from the outside world and punishment and disciplinary measures. With respect to punishment and discipline, the measures used on prisoners were

often inconsistent with international minimum standards, and, in some cases, may have amounted to torture or ill-treatment.<sup>24</sup> In many of the prisons, the special arrangements for pregnant prisoners and women prisoners with babies were also a challenge, including the shortage of sanitary napkins and other toiletries.<sup>25</sup>

### **Recommendations to the government:**

- Address and resolve the issue of overcrowding in prisons by finding sustainable and effective measures to reduce the prison population.
- Increase the use of alternatives to prison sentences, by developing non-custodial measures within the legal system, in line with the United Nations Standard Minimum Rules for Non-custodial Measures (also known as the “Tokyo Rules”), including measures aimed at: the avoidance of pre-trial or remand detention and alternatives to prison terms during sentencing.
- Impose mandatory rehabilitation, as a preferred method of treatment to prison terms, for drug users and drug addicts, and for those convicted of drug use or drug consumption.
- Improve living conditions in prisons to be in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (also known as the “Nelson Mandela Rules”), particularly with regard to the amount of space allocated per prisoner, sanitation facilities, and the availability of adequate healthcare.
- Improve conditions for women in prison in line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (also known as the “Bangkok Rules”), by acknowledging the specific needs of women in prison and ensuring they have adequate medical care and facilities, especially in the case of pregnant women and women with young children.
- Allow non-governmental organizations with a relevant mandate to conduct visits to places of detention, interview inmates, and assess conditions without undue hindrance.
- Arrange a country visit for the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

<sup>1</sup> Nation, *Polls point to strong backing among Thais for death penalty*, 21 June 2018

<sup>2</sup> Bangkok Post, *Tawatchai: Death sentence ineffective potential for poor to be made scapegoats*, 4 Jun 2017

<sup>3</sup> Nation, *PM calls for death penalty for rapists, stepped up fight against trafficking*, 6 June 2016

<sup>4</sup> Bangkok Post, *General Prayut against death penalty for fatal rapes*, 5 July 2016

<sup>5</sup> Bangkok Post, *Tawatchai: Death sentence ineffective potential for poor to be made scapegoats*, 4 Jun 2017;  
Bangkok Post, *Death penalty abolition 'not easy' in Thailand*, 17 October 2017

<sup>6</sup> Nation, *Polls point to strong backing among Thais for death penalty*, 21 June 2018

<sup>7</sup> Bangkok Post, *Poll: Majority want to keep death sentence*, 23 June 2018

<sup>8</sup> Bangkok Post, *Majority want continued enforcement of death penalty: Nida Poll*, 24 June 2018

<sup>9</sup> Nation, *Justice Ministry eyes prison reform*, 19 August 2019

<sup>10</sup> Bangkok Post, *TIJ suggests non-custodial measures in response to COVID-19*, 9 April 2020

<sup>11</sup> Department of Corrections, *Thailand prison capacity surveyed on 2 April 2018*, April 2018 [in Thai],  
<http://www.correct.go.th/?p=12360>

<sup>12</sup> Bangkok Post, *Prisons buckle under overcrowding*, 9 February 2020

<sup>13</sup> Bangkok Post, *Prisons buckle under overcrowding*, 9 February 2020

<sup>14</sup> Bangkok Post, *Hacked security footage from cramped Thai prison posted on Youtube*, 25 December 2019

<sup>15</sup> Bangkok Post, *Hacked security footage from cramped Thai prison posted on Youtube*, 25 December 2019

<sup>16</sup> Department of Corrections, *Thailand prison capacity surveyed on 2 April 2018*, April 2018 [in Thai],  
<http://www.correct.go.th/?p=12360>

<sup>17</sup> Bangkok Post, *8,000 inmates released to ease risk*, 14 Apr 2020; Nation, *Thousands of prisoners released 'to ease crowding in jails*, 16 April 2020

<sup>18</sup> Bangkok Post, *Jail deaths likely caused by meals*, 7 January 2020

<sup>19</sup> Nation, *Prisoners may have died from toxic goiter*, 6 January 2020

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<sup>20</sup> Nation, *Prisoners may have died from toxic goiter*, 6 January 2020; Bangkok Post, *Phitsanulok prison chief*

*transferred over inmate deaths*, 14 January 2020

<sup>21</sup> Bangkok Post, *Prison chief faces inmate deaths probe*, 30 January 2020

<sup>22</sup> The nine prisons were: 1) Phra Nakon Ayutthaya Provincial Prison – 11 April 2018; (2) Samut Sakhon Central Prison – 23 April 2018; (3) Thanya Buri Women’s Penitentiary (Special Women’s Correctional Institution) – 25 April 2018; (4) Chiang Mai Women’s Correctional Institution – 9 May 2018; (5) Fang District Prison – 10 May 2018; (6) Chiang Rai Central Prison – 11 May 2018; (7) Phitsanulok Women’s Correctional Institution – 6 August 2018; (8) Tak Central Prison – 8 August 2018; (9) Chonburi Women’s Correctional Institution – 31 August 2018.

<sup>23</sup> This calculation of the occupancy levels is based on a surface area of 2.25m<sup>2</sup> per prisoner, the prison population in April 2018, and the standard occupancy level in April 2018, retrieved from Department of Corrections, *Thailand prison population statistics*, 1 April 2018 [in Thai], [http://www.correct.go.th/rt103pdf/report\\_result.php?date=2018-04-01&report=](http://www.correct.go.th/rt103pdf/report_result.php?date=2018-04-01&report=), and Department of Corrections, *Thailand prison capacity surveyed on 2 April 2018*, April 2018 [in Thai], <http://www.correct.go.th/?p=12360>

<sup>24</sup> FIDH, *Not so model: The reality of women incarcerated in Thailand’s ‘model’ prisons*, 11 December 2019, <https://www.fidh.org/en/region/asia/thailand/not-so-model-the-reality-of-women-incarcerated-in-thailand-s-model>

<sup>25</sup> FIDH, *Not so model: The reality of women incarcerated in Thailand’s ‘model’ prisons*, 11 December 2019, <https://www.fidh.org/en/region/asia/thailand/not-so-model-the-reality-of-women-incarcerated-in-thailand-s-model>