



THE UPR PROJECT AT BCU

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The UPR Project at BCU
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About the UPR Project at BCU:

Birmingham City University's Centre for Human Rights was created in 2014 to promote human rights, ensure access to justice, and enhance the rule of law around the world. We seek to achieve this through leading research, education, and consultancy. We submit expert reports to international human rights regions, provide advisory services to governments and nongovernmental organisations, and draft legal opinions and file legal briefs in domestic courts and international human rights courts.

The Centre for Human Rights established the UPR Project in 2018 as part of our consultancy service. We engage with the Human Rights Council's review process in offering support to the UPR Pre-sessions, providing capacity building for UPR stakeholders and National Human Rights Institutions, and the filing of stakeholder reports in selected sessions. The UPR Project is designed to help meet the challenges facing the safeguarding of human rights around the world, and to help ensure that UPR recommendations are translated into domestic legal change in member state parliaments. We fully support the UPR ethos of encouraging the sharing of best practice globally to protect everyone's human rights. The UPR Project at BCU engages with the UPR regularly as a stakeholder, having submitted seven reports and been cited by the OHCHR. You can read more about the UPR Project here: www.bcu.ac.uk/law/research/centre-for-human-rights/projects-and-consultancy/upr-project-at-bcu

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INTRODUCTION

1. Thailand has ratified seven of the nine core international human rights treaties,¹ and signed one.² This Stakeholder Report recommends that the government make practical commitments in the third cycle of the UPR, for the abolition of the death penalty. We call for the initiation of an official moratorium on the death penalty, as a step towards domestic *de jure* abolition. This will enable Thailand to ratify the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty,³ and subsequently join the abolitionist countries in the UNGA biennial vote in support of the Resolution on the moratorium on the use of the death penalty. Thailand would then contribute positively to worldwide abolition.

A. Thailand and International Law on the Death Penalty

Thailand's Capital Judicial Process

2. Thailand's last execution was in 2018 and so the country is considered to be retentionist.⁴ The latest data from Amnesty International show that in 2019 there were 16+ death sentences, and 312 people on death row.⁵ In 2003, lethal injection replaced death by firing squad as the method of execution.
3. Historically, the punishment was recognised in the Royal Decree on Criminal Offences in the Buddhist Era of 1895 (BE) or 1352 AD.⁶ Leading to the modern-day, various amendments have been made to the capital legislation, and there have been periods in which the death penalty fell into disuse. The Criminal Code in 1957 provided for 31 capital offences which included various homicide, security offences, and economic crimes. The wide scope of capital offences has continued, with the current Criminal Code mandating 55 capital offences, including a widening of the punishment for drugs offences.⁷
4. The Constitution of the Kingdom of Thailand (2017) provides for the protection of human dignity (s. 4, 26), and the right to life is protected in s. 28, with the enumeration of:

any act affecting the right or liberty in life or person shall not be permitted except on the grounds as provided by law. Torture, brutal acts or punishment by cruel or inhumane means shall not be permitted (s. 28).
5. The Criminal Code (as amended) endorses the constitutional exception in s. 28 for the imposition of the death penalty. The most recent execution was in 2018 which was nine years since the previous two executions in 2009, following a further six years since the previous execution in 2003.
6. The government has provided important concessions concerning the abolition of the death penalty. After the outcome of Thailand's UPR second cycle (detailed below in Section B), Thani Thongpakdi, Permanent Representative of Thailand to the UN, stated that, 'Thailand was committed to abolishing the death penalty, taking a step-by-step approach; the issue was also included in the Third National Action Plan on Human Rights.'⁸

International Law Promoting the Restriction and Abolition of the Death Penalty

7. The United Nations has created a sophisticated framework for scrutinising the death penalty. Article 6 ICCPR, protects the right to life, Article 7 prohibits torture and inhumane punishment, and Article 14 provides for the right to a fair trial.⁹ The Second Optional Protocol to the ICCPR rendered an opportunity to galvanise state abolition worldwide,¹⁰ and the ECOSOC Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty provide enhanced procedural, trial, and appellate protections for capital defendants.¹¹
8. This corpus of legal protection contributes to the abolitionist initiatives in the General Assembly,¹² the OHCHR Special Procedures including Country Mandates¹³ and Thematic Mandates of the various Special Rapporteurs and Working Groups,¹⁴ the quinquennial reporting to the Secretary General,¹⁵ the Secretary General's Question on the Death Penalty,¹⁶ Human Rights Committee decisions,¹⁷ and the Universal Periodic Review.¹⁸
9. This intricate UN machinery was reflected in the Human Rights Council on 4 March 2015, during the high-level panel which, 'exchange[d] views on the questions of the death penalty, and [addressed] regional efforts aiming at...abolition.'¹⁹ Mr. Joachim Rucker, President of the Human Rights Council, noticed the, 'major achievement,'²⁰ that a significant majority of countries around the world had, 'either abolished the death penalty, introduced a moratorium or did not practice it.'²¹ Ms. Ruth Dreifuss, former President of the Swiss Confederation, affirmed, 'humanity had made considerable advances towards the universal abolition of the death penalty.'²² The panel concluded that in considering each of the human rights regions it is, 'possible to move gradually towards abolition through dialogue and advocacy,' and this is because the death penalty is, 'not about any particular culture or any religion.'²³ Abolition of the death penalty is therefore a universal ideal.
10. On 26 February 2019 an HRC high-level panel focused on the associated human rights violations and concluded:

[i]t is fundamentally unjust for a State to decide who deserved to live and who did not...the panel encouraged societies to seek reconciliation rather than meeting violence with violence by applying the death penalty.²⁴
11. Reflecting this abolitionist focus, the General Comment on the Right to Life²⁵ provides an interpretive methodology and concerning ICCPR Article 6(6), which states, '[n]othing in this article shall be invoked to delay or to prevent the abolition of capital punishment,' it:

reaffirms the position that States parties that are not yet totally abolitionist should be on an irrevocable path towards complete eradication of the death penalty, de facto and de jure, in the foreseeable future. The death penalty cannot be reconciled with full respect for the right to life, and abolition of the death penalty is both desirable [...] and necessary for the enhancement of human dignity and progressive development of human rights.²⁶

12. Article 6(6) provides a time-limiting mechanism that is designed to neutralise the ability of member states to perpetually claim domestic legitimacy in a continued use of the death penalty. This is reflected in the growing international consensus against capital punishment,²⁷ as affirmed in the Human Rights Council's Resolution 42/24 The question of the death penalty, on 27th September 2019.²⁸

Thailand and the UNGA Resolution on the moratorium on the use of the death penalty

13. In the biennial vote of the UNGA Resolution on a moratorium on the use of the death penalty, Thailand had 'abstained' from the vote in 2010,²⁹ 2012,³⁰ 2014,³¹ 2016,³² 2018,³³ and 2020.³⁴ This demonstrates a solid shift away from the two votes 'against' in 2007³⁵ and 2008.³⁶
14. Thailand's voting record is mirrored in the absence of support for the Joint Permanent Missions' *note verbale* of dissociation in the objection to the Secretary General on the attempt to create a global moratorium, in 2011,³⁷ 2013,³⁸ 2015,³⁹ 2017,⁴⁰ and 2019.⁴¹ The government had originally supported the *note verbale* in 2008⁴² and 2009.⁴³
15. Both the abstaining of the vote on the UNGA resolution and the lack of support for the *note verbale* of dissociation provides a political platform to take the next step to support the forthcoming vote on the resolution.

Thailand's National Report and the Statements on the Death Penalty

16. Thailand's first cycle national report statement on the death penalty was:

Thailand has abolished the death penalty for persons below 18 years of age, and does not apply the death penalty on pregnant women and persons with mental illness. The death penalty is imposed only on persons who have committed serious crimes, and royal pardons are sought and granted on various occasions whereby the death sentence is commuted to life imprisonment. Furthermore, Thailand attaches importance to the process of national consultation on the death penalty.⁴⁴

17. The government's response to the death penalty recommendations in the first cycle was:

Thailand is embarking on a process of studying the possibility of abolishing the death penalty, in consultation with the public and relevant stakeholders. However, pending the completion of this consultation process, Thailand is unable to accept recommendations to review or amend the law in regard to capital punishment, place a moratorium on or abolish the death penalty.⁴⁵

18. Thailand's second cycle review reveals a shift from a position of rejecting the recommendations on the possibility of abolishing the death penalty, to an acceptance of initiating processes for abolition. These changes from the first cycle to the second cycle are consistent with the shift in the vote on the UNGA Resolution on the moratorium on the use of the death penalty.

B. Implementation of Recommendations from Cycle Two in 2016

19. Thailand received 249 recommendations in the second cycle of which 181 were supported and the decision was deferred on the remaining 68 recommendations.⁴⁶ Twenty-six recommendations focused on the death penalty and were provided by 32 countries. The government 'supported' 6 recommendations, and 'noted' 20. Of the 6 it accepted, none have been implemented.

20. The Working Group Report provided the observation on Thailand's consideration of the death penalty:

The Ministry of Justice started studying the possibility of abolishing the death penalty five years ago. The country's intention was reaffirmed in the Third National Human Rights Plan. Despite varying public sentiment, the Ministry of Justice continues to look into the possibility of abolishing the death penalty.⁴⁷

21. In response to the UPR recommendations to commute the death sentences with a view to abolishing the death penalty, Thailand stated:

The recommendation enjoys our support...and our intention to take steps towards the abolition of the death penalty as indicated in the 2nd and 3rd National Human Rights Plans.⁴⁸

22. Thailand also affirmed in its voluntary commitments:

Our intention to abolish the death penalty is reaffirmed in the 3rd National Human Rights Plan as well as by our acceptance of the recommendations 158.72-158.75 as they are in line with our position to take a step by step approach given there are still different public sentiments on this issue. In practice, the death penalty has not been imposed for almost a decade, with the last execution taking place in 2009. We note the recommendations 159.21-159.29 and will consider them in subsequent UPR cycles when our work reaches the stage of complete abolition.⁴⁹

23. The Human Rights Council report of the thirty-third session noted:

Thailand had supported six more recommendations in line with the Government's policies and the readiness of the line agencies, including...the recommendation contained in paragraph 159.30 to take steps towards the abolition of the death penalty.⁵⁰

24. These second cycle statements affirm there is a political intention to abolish the death penalty in Thailand, and the National Human Rights Commission of Thailand stated:

The inclusion of the death penalty in the Third National Human Rights Plan (2014-2018) is a positive development and the NHRCT hopes that the government will take steps to towards abolishing such punishment in the future.⁵¹

Reducing the Scope of the Death Penalty

25. Six recommendations focused on reducing the scope of the death penalty to the most serious crimes. **Spain** (para. 159.26) recommended, ‘[e]liminate the death penalty for crimes that cannot be considered as most serious crimes such as economic ones,’ and **Timor-Leste** (para. 159.27) ‘[c]onsider eliminating the clause that expands the use of the death penalty for economic crimes,’ **Albania** (para. 159.29) ‘[r]epeal the clause expanding the use of the death penalty for economic crimes,’ **Slovenia** (para. 158.72) ‘[r]eview the imposition of death penalty for offences related to drug trafficking,’ **Uruguay** (para. 159.28) ‘[e]liminate the death penalty in the new anti-corruption law,’ and **Ecuador** (para. 158.73) ‘[r]econsider the abolition of the death penalty as a sentence for various crimes.’

Recommendations Concerning De Jure Abolition

26. Twelve recommendations focused on the process towards *de jure* abolition. **Mexico** (para. 159.16) called for Thailand to ‘[c]arry out the necessary legal reforms to fully abolish the death penalty,’ **Paraguay** (para. 159.24) to ‘[i]mplement the full abolition of the death penalty,’ and **Denmark** (para. 159.24) to ‘[a]bolish the death penalty by law.’ **Georgia** (para. 158.74) recommended Thailand ‘[t]ake steps,’ and **Madagascar** (para. 158.75) and **Togo** (para. 158.75) ‘[t]ake measures,’ and **Brazil** (para. 158.75), ‘[t]ake concrete steps,’ to abolish the death penalty. **Honduras** (159.24) recommended, ‘[a]bolish the death penalty,’ **Slovakia** (para. 159.24) ‘[a]bolish immediately the death penalty,’ **Paraguay** (para. 159.24) ‘[i]mplement the full abolition of the death penalty,’ and **Chile** (para. 159.25) ‘[r]epeal the application of the death penalty in all areas.’

Recommendations Concerning an Official Moratorium on the Death Penalty

27. As a significant step towards abolition, six recommendations called for Thailand to adopt an official moratorium on the death penalty. **Italy** (para. 159.21), **Australia** (para. 159.22), **Germany** (para. 159.22), **Iceland** (para. 159.23), **Portugal** (para. 159.23), and the **Plurinational State of Bolivia** (para. 159.23), proposed that a moratorium should be an initial policy step towards domestic abolition.

Recommendations concerning Thailand’s Adoption of International Law

28. Five recommendations focused upon the ratification of the Second Optional Protocol. These can be read as building upon *de jure* abolition to incorporate the protocol for the country to contribute to the growing international rejection of the punishment. These were: **Namibia** (para. 159.1) **Montenegro**, **Panama**, **Poland**, **Portugal**, **Slovenia**, **Spain**, **Turkey** (para. 159.2), **Mexico** (para. 159.16), **Australia**, **Germany** (para. 159.22) and **Uruguay** (para. 159.28).

C. Further Points for Thailand to Consider

The Role of the National Human Rights Institution

29. The National Human Rights Institution (NHRI) of Thailand could advise the government on the abolition process, provide public education on how capital punishment renders harmful effects upon society, and demonstrate its ineffectiveness as a penological policy on deterrence. Ten states recommended that Thailand ensures that the NHRI is in compliance with the Paris Principles. These included: **Egypt** (para. 158.38), **Indonesia** (158.40), **Paraguay** (158.41), **Poland** (158.42), **New Zealand** (158.43), **Portugal** (158.44), **Senegal** (158.45), **Australia** (158.46), **France** (158.47), and **Nepal** (158.48).

Adopting the UPR Recommendations to Enable the State to Benefit from Advances in Effective Penology

30. The right to benefit from scientific advancement should apply to the progress in social science research on the death penalty. The UDHR, Article 27, states, '[e]veryone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits,'⁵² and ICESCR Article 15 (1)(b) recognises the right of everyone, '[t]o enjoy the benefits of scientific progress and its applications.'
31. Roger Hood and Carolyn Hoyle have produced the leading social science and criminological investigations into the death penalty worldwide and have concluded:

Those who favour capital punishment 'in principle' have been faced with yet more convincing evidence of the abuses, discrimination, mistakes, and inhumanity that appear inevitably to accompany it in practice. Some of them have set out on the quest to find the key to a 'perfect' system in which no mistakes or injustices will occur. In our view, this quest is chimerical.⁵³

32. Social science investigations demonstrate that reflecting appropriate government means that whilst capital punishment could be created within a legitimate parliamentary process,⁵⁴ it is now clear that the application of the death penalty renders an illegitimate and inhumane outcome.⁵⁵

The Universal Periodic Review and the Sustainable Development Goals

33. Thailand should consider adopting the UPR recommendations in an expression of mutual reinforcement of commitments to promote the Sustainable Development Goals.⁵⁶ The human rights values expressed in both the UPR and the SDGs can be weaved together to promote policy coherence.⁵⁷
34. SDG 16 provides for 'Strong Institutions and Access to Justice and Build Effective Institutions,' but the application of the death penalty is inconsistent with this goal.⁵⁸ SDG 16.1, aims to reduce death rates, promote equal access to justice, and protect fundamental freedoms, and to further this, SDG 16.A.1 identifies the importance of independent national human rights institutions. Consistent with this goal, Thailand should provide the National Human Rights Commission, with a mandate to advise on the legislative process for the abolition of the death penalty.

35. The use of the death penalty does not signal legitimate strength in institutions, but renders counterproductive and inhumane consequences, including a brutalising effect upon society.

D. Recommendations

The UPR Project at BCU recommends that the government of Thailand should:

- i. Implement the recommendations from the second cycle of the UPR:
 - a. to adopt an official moratorium on the death penalty;
 - b. amend national legislation to abolish the punishment in all circumstances; and,
 - c. ratify the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty.
- ii. Provide the National Human Rights Commission with a mandate to advise on legislative amendment for abolition. This will include amending the Criminal Code, and an amendment to s. 28 of the Constitution. A recommended amendment to s. 28 is: ‘A person shall enjoy the right and liberty in his or her life and person. No one shall be subject to the capital judicial process. The death penalty is abolished.’
- iii. Support the next vote on the UNGA Resolution on the moratorium on the use of the death penalty.
- iv. Enhance its support for the Asia Pacific Forum of National Human Rights Institutions in their important contribution to the regional abolition of the death penalty.
- v. Accept UPR recommendations on the abolition of the death penalty, signalling Thailand’s affirmation of commitments to SDG 16 on strong institutions.

¹ The core international treaties that Thailand has ratified are: International Covenant on Civil and Political Rights, (1976) 999 UNTS 171 (ratified on 29 October 1996); International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200A (XXI) 16 December 1966 (ratified on 5 September 1999); Convention on the Rights of the Child, G.A. Res. 44/25, 20 November 1989 (ratified on 27 March 1992); Convention on the Elimination of All Forms of Discrimination Against Women, New York, 18 December 1979 (ratified 9 August 1985); Convention on the Elimination of All Forms of Racial Discrimination, New York, 21 December 1965 (ratified on 28 January 2003); and, Convention on the Rights of Persons with Disabilities, New York, 13 December 2006 (ratified 29 July 2008); and, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46 10 December 1984 (ratified 2 October 2007).

² Convention for the Protection of All Persons from Enforced Disappearance, New York, 23 December 2010; the International Convention on the Protection of the Rights of All Migrant Workers and members of Their Families, G.A. Res 45/158, 18 December 1990.

³ The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, G.A. Res 44/128 15 December 1989.

⁴ Amnesty International, *Death Sentences and Executions 2019*, ACT 50/1847/2020 (Amnesty International, 2020), p. 55.

⁵ *Ibid.*, p. 21.

⁶ For a review of the history of the death penalty in Thailand see, *Report: The Death Penalty in Thailand*, International Federation on Human Rights and the Union for Civil Liberty, (March, 2005), p. 9.

⁷ See, Joint Submission prepared by the International Federation for Human Rights (FIDH) and the Union for Civil Liberty (UCL), 25th Session of the Working Group on the Universal Periodic Review, Human Rights Council, April 2016, para 10.

⁸ Human Rights Council adopts outcomes of Universal Periodic Review of Thailand and Ireland, Human Rights Council, 23 September 2016, <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=20572&LangID=E>

⁹ International Covenant on Civil and Political Rights (1976) 999 UNTS 171, Article 6 (right to life); Article 7 (the prohibition against torture and inhuman or degrading treatment or punishment); and Article 14 (the right to a fair trial and the principle of equality of arms).

¹⁰ The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, GA Res. 44/128, December 15, 1989.

¹¹ See, Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, Economic and Social Council Resolution, 1984/50; Additions to the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty as Agreed by the Economic and Social Council Resolution 1989/64; and the Strengthening of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty as Agreed by the Economic Council Resolution 1996/15.

¹² For example, see the UNGA Resolution on the moratorium on the use of the death penalty, UNGA Res A/RES/73/170 (17 December 2018).

¹³ For example, the Independent Expert on the human rights situation in Sudan <http://www.ohchr.org/EN/Countries/AfricaRegion/Pages/SDIndex.aspx>.

¹⁴ For example, the Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions, <http://www.ohchr.org/EN/Issues/Executions/Pages/SRExecutionsIndex.aspx>, and the Special Rapporteur on Torture and other Cruel,

Inhuman or Degrading Treatment or Punishment, <http://www.ohchr.org/EN/Issues/Torture/SRTorture/Pages/SRTortureIndex.aspx>.

¹⁵ ECOSOC Capital Punishment and Implementation of the Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty Report of the Secretary-General UN Doc E/2015/49 (13 April 2015).

¹⁶ Report of the Secretary General, Question of the Death Penalty, A/HRC/27/23, 30 June 2014.

¹⁷ For example, *Judge v. Canada*, Communication No. 829/1998, U.N. Doc. CCPR/C/78/D/829/1998 (2003).

¹⁸ UPR Info, Database: Death Penalty <https://www.upr-info.org/database/>.

¹⁹ High-level panel discussion on the question of the death penalty, Report of the United Nations High Commissioner for Human Rights, UNGA, A/HRC/30/21 (16 July 2015) p. 2

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

²³ Ibid., p. 12.

²⁴ High-level panel discussion on the question of the death penalty, A/HRC/42/25, p. 10.

²⁵ General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, CCPR/C/GC/36, 30 October 2018.

²⁶ Ibid., para. 50, p. 12.

²⁷ Amnesty International, stated, that at the end of 2018, more than two-thirds of the world's nations had "abolished the death penalty in law or practice," in, *Death Penalty in 2018: Facts and Figures*, (10 April 2019) <www.amnesty.org/en/latest/news/2019/04/death-penalty-facts-and-figures-2018/>.

²⁸ Resolution 42/24 The question of the death penalty, A/HRC/RES/42/24, 8 October 2019.

²⁹ Resolution on the Moratorium on the use of the death penalty, UNGA Res. 65/206 21 December 2010 *adopted by 109 votes to 41, with 35 abstentions*

³⁰ Resolution on the Moratorium on the use of the death penalty, UNGA Res. 67/176 20 December 2012, *adopted by 111 votes to 41, with 34 abstentions*

³¹ Resolution on the Moratorium on the use of the death penalty, UNGA Res. 69/186 18 December 2014 *adopted by 117 votes to 37, with 34 abstentions*;

³² Resolution on the Moratorium on the use of the death penalty, UNGA Res. 71/187, 19 December 2016 *adopted by 117 votes to 40, with 31 abstentions*.

³³ Resolution on the Moratorium on the use of the death penalty, UNGA Res. 73/175 17 December 2018 *adopted by 121 votes to 35, with 32 abstentions*.

³⁴ Resolution on the Moratorium on the use of the death penalty, UNGA Res. 75/183, 16 December 2020 *adopted by 123 votes to 38, with 24 abstentions*.

³⁵ Resolution on the Moratorium on the use of the death penalty, UNGA Res. 62/149, 18 December 2007 *adopted by 104 votes to 54, with 29 abstentions*.

³⁶ Resolution on the Moratorium on the use of the death penalty, UNGA Res. 63/168 18 December 2008, *adopted by 106 votes to 46, with 34 abstentions*

³⁷ Note verbale dated 11 March 2011 from the Permanent Missions to the United Nations of Egypt, addressed to the Secretary general, A/65/779, 11 March 2011.

³⁸ Note verbale date 16 April 2013 from the Permanent Missions to the United Nations of Egypt, addressed to the Secretary general, A/67/841, 16 April 2013.

³⁹ Note verbale dated 28 July 2015 from the Permanent Missions to the United Nations of Egypt, addressed to the Secretary general, A/69/993, 28 July 2015.

⁴⁰ Note verbale dated 17 September 2017 from the Permanent Missions to the United Nations of Egypt addressed to the Secretary general, A/71/1047, 17 September 2017.

⁴¹ Note verbale dated 16 September 2019 from the Permanent Missions to the United Nations of Egypt addressed to the Secretary general, A/71/1047, 16 September 2019.

⁴² Note verbale dated 11 January 2008 from the Permanent Missions to the United Nations of Afghanistan and fifty-seven others, addressed to the Secretary general, A/62/658, 2 February 2008.

⁴³ Note verbale dated 12 February 2009 from the Permanent Missions to the United Nations of Egypt, addressed to the Secretary general, A/63/716, 12 February 2009.

⁴⁴ Thailand, National Report, Working Group of the Universal Periodic Review, 19 July 2011, A/HRC/WG.6/12/THA/1, para. 33.

⁴⁵ Report of the Working Group on the Universal Periodic Review, Thailand, Addendum, A/HRC/19/8/Add.1, 6 March 2012, p. 4.

⁴⁶ Report of the Human Rights Council on its thirty-third session, A/HRC/33/2, 22 April 2020, p. 109.

⁴⁷ Thailand, National Report, Working Group of the Universal Periodic Review, A/HRC/WG.6/12/THA/1, 19 July 2011, p. 6

⁴⁸ Report of the Working Group on the Universal Periodic Review, Thailand, Addendum, A/HRC/33/16/Add.1., 7 September 2016, p. 2

⁴⁹ Ibid., p. 4.

⁵⁰ Report of the Human Rights Council on its thirty-third session, A/HRC/33/2, 22 April 2020, p. 109.

⁵¹ Stakeholder Report, The National Human Rights Commission of Thailand, Submitted to the Human Rights Council, Second Cycle of the UPR, 2016, p. 1

⁵² It is further recalled that the Human Rights Council determined that the basis of the Universal Periodic Review includes consideration of the Universal Declaration of Human Rights, see, Institution-building of the United Nations Human Rights Council, A/HRC/RES/5/1 18 June 2007.

⁵³ See, Roger Hood and Carolyn Hoyle, *The Death Penalty: A Worldwide Perspective*, 5th ed, (Oxford University Press, 2015), p. 7-8.

⁵⁴ John Rawls stated, "[a]t some point, the injustice of the outcomes of a legitimate democratic procedure corrupts its legitimacy," in, *Political Liberalism*, (Columbia University Press, 2005), p. 248.

⁵⁵ Austin Sarat stated, "law cannot work its lethal will and ally itself with the killing state while remaining aloof and unstained by the deeds themselves," in, *When the State Kills: Capital Punishment and the American Condition*, (Princeton University Press, 2001), p. 21.

⁵⁶ See the UN Sustainable Development Goals website, <https://sustainabledevelopment.un.org/?menu=1300>

⁵⁷ The first two cycles of the UPR were reviewed under a data mining procedure and of the circa. 50,000 recommendations, it was possible to link more than 50% of those to SDG targets, see, The Danish Institute for Human Rights, Linking the Universal Periodic Review to the SDGs, p. 2

⁵⁸ Sustainable Development Goal 16, "Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels," <https://sustainabledevelopment.un.org/sdg16> 16.3 Promote the rule of law at the national and international levels and ensure equal access to justice for all, and 16.10 Ensure public access to information and

protect fundamental freedoms, in accordance with national legislation and international agreements.