

**Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the rights to freedom of peaceful assembly and of association**

Ref.: AL THA 10/2024  
(Please use this reference in your reply)

23 September 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 52/7 and 50/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged torture and/or other cruel, inhuman or degrading treatment or punishment suffered by Mr. **Attasith Nussa** while in police custody between 29 and 30 October 2021.

According to the information received:

Mr. Attasith Nussa is an engineer by profession who has shown interest in human rights and the politics of his country for many years. He is a volunteer for the Move Forward Party, where he actively participated in several political movements. He also advocated for the passage of the legislation on Prevention and Suppression of Torture and Enforced Disappearance Law in Thailand, which came into force in February 2023<sup>1</sup>.

On 29 October 2021, Mr. Attasith Nussa attended a demonstration in commemoration of the death a few months before of a fellow activist. Around 6 p.m., Mr. Attasith Nussa was reportedly arrested by several police officers, some of whom were in plainclothes, near the entrance of Din Daeng police station. It is alleged that they used excessive force during his arrest. It is alleged Mr. Attasith Nussa was pinned down to the ground with his neck pressed and locked to the floor, and was physically assaulted, kicked, and punched by police officers. He was reportedly handcuffed so tightly that his hands became swollen while being transferred to the police station. He was not informed of the charges against him.

In the station's interrogation room, a police officer wearing a white shirt (whose name is known but has been redacted from this communication) reportedly approached Mr. Attasith Nussa and said to some officers exiting the room to "*leave this one to me*" and "*let him die an ugly death*". It is alleged that this police officer threatened to kill Mr. Attasith Nussa by making it look like an accident. During his interrogation, the same police officer reportedly forced Mr. Attasith Nussa to sit on a wooden sofa and forcefully grabbed his head, slamming it into the sofa twice. A junior police officer in a blue shirt - a subordinate of the interrogator - was reportedly present observing the whole

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<sup>1</sup> See an unofficial translation of the Bill: [www.icj.org/wp-content/uploads/2022/08/Torture-ED-Bill\\_Unofficial-Trans\\_Aug-22.pdf](http://www.icj.org/wp-content/uploads/2022/08/Torture-ED-Bill_Unofficial-Trans_Aug-22.pdf).

interrogation silently.

Afterwards, the police officer wearing the white shirt began interrogating Mr. Attasith Nussa about his alleged involvement in setting fire to a shrine during the protest. He was also interrogated regarding allegation of shooting at the police. The officer reportedly grabbed a baton used for crowd control and struck Mr. Attasith Nussa's ribs and the right side of his stomach, which resulted in bruises. Following that, the same officer is said to have pinned him down and pressed his neck against the wooden sofa, while Mr. Attasith Nussa continued to deny any involvement in those actions. Then, the police officer reportedly requested Mr. Attasith Nussa's phone and passcode, and when Mr. Attasith Nussa questioned whether he could refuse, he allegedly choked him around the neck, approximately five times to restrict his breathing. Despite being forced to provide the passcode to his phone, he intentionally gave incorrect codes, resulting in being choked two to three more times. It is alleged that Mr. Attasith Nussa nearly lost consciousness twice.

Eventually, Mr. Attasith Nussa in order to avoid further harm capitulated and the police officer accessed his phone. The police officer in the white shirt informed Mr. Attasith Nussa that his phone would be handed over to the Royal Thai Police's Technology Crime Suppression Division (TCSD) for data retrieval.

Around 7 p.m., before leaving Mr. Attasith Nussa with the junior officer in the blue shirt - assigned to monitor Mr. Attasith Nussa – the interrogator in the white shirt reportedly kicked him one more time. The police officer with the white shirt then left. The junior officer asked him if he needed anything. Mr. Attasith Nussa requested to have his handcuffs loosened, which the junior officer complied with. He also provided him with some water. Meanwhile, Mr. Attasith Nussa's phone was placed on another desk, awaiting the arrival of the Technology Crime Suppression Division (TCSD). Mr. Attasith Nussa remained seated on the floor next to the wooden sofa for about three hours from around 7 to 10 p.m.

Around 10 p.m., the police in the white shirt returned and asked Mr. Attasith Nussa several questions about his job, daily wages, and personal life. At around 11 p.m., the police officer reviewed security camera footage to investigate his alleged involvement in torching the shrine. Eventually, it appeared that Mr. Attasith Nussa had not committed any crime. He was then required to sign a Technology Crime Suppression Division (TCSD) document granting them access to his phone and confirming its return. Subsequently, the police officer with the white shirt left.

Before midnight, Mr. Attasith Nussa was asked to sign another form acknowledging his arrest. The form stated that the arrest was carried out legally by the authorities who arrested him, without using force, coercion, or violence. It also stated that he was informed of the charges pressed against him and the circumstances that led to his arrest.

On 30 October 2021, at around 1 a.m., two plain clothes officers, who were not present during his prior interrogation, questioned Mr. Attasith Nussa about his name, occupation, and personal details while recording the interview in the

same interrogation room where he had been left with the police officer in the white shirt. At that point, his handcuffs were removed.

At around 3 a.m., Mr. Attasith Nussa was taken to see the inquiry officers in a meeting room located in another building of the same police station. After a total of nine hours from his arrest, Mr. Attasith Nussa met with his lawyers and other protestors who were arrested the same night. He was asked by the inquiry officers to sign additional documents, including: a paper informing him of the charges pressed against him; testimonies he had given to the inquiry officers; and a paper acknowledging that he was informed of his rights in the criminal proceedings to which he was entitled. During the inquiry process, he rejected all charges pressed against him and retracted the confession given during the interrogation process.

After the inquiry, Mr. Attasith Nussa was taken to the detention room at the police station. Mr. Attasith Nussa spent the rest of the night in custody, in the detention room, where he was reportedly unable to sleep.

Still on 30 October 2021, Mr. Attasith Nussa's lawyer documented through photos Mr. Nussa's wounds and bruises.

On 30 October 2021, at around 8 a.m., Mr. Attasith Nussa was brought to Bangkok North Municipal Court in handcuffs along with other arrested demonstrators and charged with the offence of constituting an illegal assembly under articles 215 and 216 of the Thai Criminal Code and violating a COVID-19 emergency regulation that restricted gatherings. The emergency regulation barred the carrying out of activities or gatherings that risked spreading COVID-19. The police officers requested the court to grant temporary arrest during the inquiry process. During the court's examination of the police's request, Mr. Attasith Nussa denied the charges against him and the court eventually granted him temporary release. On the same day, in the afternoon after his release, Mr. Attasith Nussa visited a doctor at Kasemrat Hospital Prachachuen, who issued a medical certificate confirming that he had been subjected to physical assaults, with injuries and bruises on his head, face, neck and body.

On 1 November 2021, Mr. Attasith Nussa was issued another medical certificate from Siriraj Hospital, similarly analysing that he had been subjected to physical assaults and was covered with wounds and bruises over his body.

On 11 January 2022, Mr. Attasith Nussa went to the Department of Mental Health, Ministry of Public Health, located at Galya Rajanagarindra Institute for a mental health examination. The psychiatrist issued a medical certificate, confirming that he was severely suffering from stress, anxiety and insecurity.

### *Judicial Processes*

#### *House of Representative's Committee on Legal Affairs, Justice and Human Rights*

On 11 November 2021, Mr. Attasith Nussa gave testimony and evidence to the House of Representative's Committee on Legal Affairs, Justice and Human

Rights. However, there has reportedly been no report and the Committee was dissolved in March 2023.

*Royal Thai Police's Internal Fact-Finding Committee*

Right after Mr. Attasith Nussa's complaint was made, Mr. Attasith Nussa was informed that the Royal Thai Police's Metropolitan Police Bureau established a fact-finding committee to investigate the case. Both Mr. Attasith Nussa and the police officer in the white shirt were invited to give testimonies. In early 2023, Mr. Attasith Nussa's lawyer was informed that the fact-finding committee was of the view that the bruises and wounds on Mr. Attasith Nussa's body resulted from his resistance during the arrest, not from the commission of torture or ill-treatment. It is alleged that no written confirmation was sent about such findings to Mr. Attasith Nussa.

*Committee Managing Complaints for Torture and Enforced Disappearance Cases*

On 17 November 2021, Mr. Attasith Nussa filed a complaint with the Ministry of Justice's Department of Special Investigations (DSI), requesting that it be granted special case status to the suspect being an influential person (a senior police officer).

Despite the request made by Mr. Attasith Nussa, the Department of Special Investigations (DSI) forwarded the case to the Fact-Finding Sub-Committee under the Committee Managing Complaints for Torture and Enforced Disappearance Cases, of which it serves as a chair. The Committee was established before the enactment of Thai law criminalizing torture, ill-treatment and enforced disappearance in February 2023, to bring perpetrators to justice while the law criminalizing such acts was still absent.

Mr. Attasith Nussa cooperated with the Sub-Committee by providing statements and collecting and submitting evidence. After seven months, on 16 June 2022, the Sub-Committee issued its decision. In the decision letter, the Sub-Committee referred to the definition of torture under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and concluded that the abuses inflicted on Mr. Attasith 'did not constitute an act of torture,' as it 'did not involve obtaining a confession' and Mr. Attasith Nussa 'was not severely injured.' Consequently, they decided to close the case.

On 12 July 2022, Mr. Attasith Nussa appealed the decision of the Sub-Committee to the same body, objecting to the outcome and requesting reconsideration of their interpretation of torture and the decision to close the investigation. Following the dissolution of the Committee Managing Complaints for Torture and Enforced Disappearance Cases upon the enactment of the Act on Prevention and Suppression of Torture and Enforced Disappearance ('Anti-Torture Act'), the appeal was transferred to the newly established Committee for Prevention and Suppression of Torture and Enforced Disappearance under the Anti-Torture Act. This Committee assigned the Department of Special Investigations (DSI) to evaluate the appeal.

On 9 November 2023, the Department of Special Investigations (DSI) issued a letter regarding the appeal result to Mr. Attasith Nussa. In the letter, the Department of Special Investigations (DSI) concluded that, in response to the ‘torture’ allegation, there was ‘no clear evidence indicating intimidation or physical abuse for the purpose of obtaining information as claimed.’ Furthermore, the Department of Special Investigations (DSI) pointed out that Mr. Attasith Nussa had signed the document providing his testimonies at the inquiry stage and the memorandum of voluntary consent to examine the information on his electronic device. Hence, the action that was appealed shall not be considered ‘cruel, inhumane and degrading treatment.’ Moreover, the Department of Special Investigations (DSI) also concluded that the act that was appealed would not be considered unlawful according to the Anti-Torture Act, as the case took place before the Act was enforced.

### Criminal Case

The criminal case has been under investigation. The senior officer in the white shirt is accused of sections 157, 295 and 310 of the Thai Criminal Code<sup>2</sup>.

On 10 March 2022, Mr. Attasith Nussa provided testimonies and evidence of the Inquiry Committee of Metropolitan Police Division 1, the Royal Thai Police.

On 22 February 2023, after several follow-ups by Mr. Attasith Nussa’s lawyer, the police informed them that the case was transmitted to the National Anti-Corruption Committee (NACC).

### Civil Case

On 3 April 2023, at the Bangkok South Civil Court, Mr. Attasith Nussa filed a civil lawsuit against the Royal Thai Police under the law on the tortious liability of officials. The witness examinations were held on 26-27 June 2024, to collect testimonies from witnesses proposed by the plaintiff and the defendant. The court delivered the verdict on 26 August at 9 a.m. The court dismissed the request of compensation and indicated that there was a lack of found evidence of indicating the official’s wrongful act against Mr. Attasith Nussa while he was under the police’s custody. It stated that the medical certificate and the doctor who stood as an expert witness could not confirm if his wounds were caused by police action.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our grave concerns about the reported violent arrest and the serious mistreatment Mr. **Attasith Nussa** while in police custody and during various interrogations. Should these allegations be confirmed, they would likely constitute violations, in particular, of articles 7, 9, 10, 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR) acceded to by Thailand on 29 October 1996, and the absolute prohibition on torture and/or other cruel, inhuman or degrading treatment as a jus cogens norm and per multiple articles of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

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<sup>2</sup> See in Thai Criminal Code, B.E 2499 at: [thailandcriminalcode.pdf \(procon.org\)](http://thailandcriminalcode.pdf(procon.org)).

Punishment (CAT) acceded to by Thailand on 2 October 2007, particularly articles 1, 15 and 16 of the CAT.

While we welcome the passage of the Act on Prevention and Suppression of Torture and Enforced Disappearance, we are concerned that this case may be illustrative of gaps in practices and procedures to protect all persons in Thailand from such unlawful abuses of power. As a *jus cogens* norm, Thailand has obligations to prohibit, prevent, investigate and prosecute public officials suspected of having committed acts of torture and/or cruel, inhuman or degrading treatment or punishment. These obligations predate the passage of the Anti-Torture Act. In particular, torture and other ill-treatment including intimidation and threats are prohibited under international law, and prosecutors and courts have a duty to refuse evidence obtained, or suspected of having been obtained, through torture or other illicit means (art. 15).

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on all measures and efforts taken or planned to be taken to implement fully the Act on Prevention and Suppression of Torture and Enforced Disappearance, and its compliance with international human rights law.
3. Please provide information specifically regarding how article 15 of the CAT is being secured in Thailand during interrogation, and what steps have been taken to review interrogation techniques and procedures as required by article 11 of the CAT to be in full conformity with the absolute prohibition on torture and other ill-treatment. In this regard, please provide information about whether the Government has plans or what actions have been taken to adopt the Principles on Effective Interviewing and for Investigations and Information Gathering (The Mendez Principles), and to what extent legal and procedural safeguards are operating effectively to prevent such allegations, such as access to a lawyer and for them to be present during interrogation, to inform a third party of one's arrest and detention, a right to a medical examination upon entry into custody, and to have one's interrogation audio or video recorded.<sup>3</sup>

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<sup>3</sup> We refer you to the Convention against Torture Initiative's Tool on Safeguards in the First Hours of Police Custody, <https://cti2024.org/wp-content/uploads/2021/01/CTI-Safeguards-final-rev.pdf>

4. Please provide information as to how the United Nations Manual on the Effective Investigation and documentation of Torture and Other cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol, rev. 2022 edition) is being implemented in Thailand, including how statements by and medical assessments of victims and survivors are carried out, and how they are permitted and used into criminal proceedings.
5. Please provide information on measures and safeguards that are aimed at preventing, in the future, similar occurrences of torture and other ill-treatment pursuant to articles 2 and 16 of the CAT.
6. Please explain the measures taken by your Excellency's Government to provide for rehabilitation and remedy, including compensation, for victims of torture and other cruel, inhuman or degrading treatment or punishment, pursuant to article 14 of the CAT and of article 7, read in conjunction with article 2(3) of the ICCPR.
7. Please provide updated information on the judicial progress of the criminal case and the civil case.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Alice Jill Edwards

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Gina Romero

Special Rapporteur on the rights to freedom of peaceful assembly and of association

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, we would like to remind your Excellency's Government the following relevant international human rights standards, which are at issue in respect of the reported allegations:

#### *Prohibition of torture and other cruel, inhuman or degrading treatment or punishment*

We recall that the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment is established in (at least) article 5 UDHR, articles 7 and 10 ICCPR as well as in multiple articles of the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT).

We stress that attached to the peremptory and absolute prohibition of torture are obligations to investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment, to prosecute or extradite suspects, to punish those responsible and to protect victims from reprisals and intimidation, and to provide remedies to victims. We refer your Excellency's Government to the comprehensive report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, on all aspects including good practices of States, relating to the investigation and prosecution of acts of torture and related ill-treatment (A/HRC/52/30).

States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment have explicit treaty duties to establish all acts of torture as offences under domestic law (art. 4 CAT), to exercise jurisdiction over said offences (art. 5), to receive complaints and examine them promptly and impartially (art. 13), to take to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of their complaint or any evidence given (art. 13), and to investigate those allegations promptly and impartially (art. 12). Defendants cannot rely on orders of a superior or public authority, or states of emergency, to exonerate their actions (art. 2(3) and 2(2)), while any legal mechanisms which interfere with that obligation, such as statutes of limitations, immunities or amnesties, are considered contrary to the non-derogable nature of the prohibition. Amnesties provided by domestic law do not remove criminal liability pursuant to international tribunals or universal jurisdiction. Prosecutors and courts have a duty to refuse evidence obtained, or suspected of having been obtained, through torture or other illicit means (art. 15). Victims are to be protected from reprisals or intimidation during said investigations (art. 13) and they have an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible (art. 14). States are to establish jurisdiction over all acts of torture on territoriality, flag State, active nationality, passive nationality, and universal jurisdiction principles (art. 5).

Regarding the guarantees of a fair trial, article 15 of the CAT operates as a reinforcement of fair trial rights as well as a prohibition on its own against being able to rely on any evidence obtained through torture and other cruel, inhuman or degrading treatment or punishment, in legal proceedings by providing that "no

*statement which is established to have been made as a result of torture may be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made."* The objective of this article is to ensure that any statement or confessions procured by torture is not admissible and must not be admitted against a party to legal proceedings. Article 15 of the CAT reinforces the international commitment to preventing the use of torture and other ill-treatment (article 2 and 16) and underscores the importance of upholding the rule of law in legal proceedings and of guaranteeing the right of the accused to a fair trial.

Moreover, we would like to refer to the Principles on Effective Interviewing for investigations and Information Gathering (the Méndez Principles) <sup>4</sup>, whose aim is to modify police practices by replacing coercive interrogations with rapport-based interviews. The Méndez Principles complete the extensive normative legal frameworks that prohibit torture and other forms of ill-treatment by aiming to eradicate prohibited practices during questioning by State agents.

In connection to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment, we recall the obligations of States to investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment, to prosecute or extradite suspects, to punish those responsible and to provide remedies to victims. Such investigations are recommended to be carried out in line with the United Nations Manual on the Effective Investigations and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("the Istanbul Protocol" revised 2022 edition).

Concerning the obligation to provide remedies for victims of torture, the Committee Against Torture has affirmed that the comprehensive reparative concept entails restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. It has also determined that 'victims are persons who have individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute violations of the Convention' and that 'a person should be considered a victim regardless of whether the perpetrator of the violation is identified, apprehended, prosecuted or convicted. Moreover, the Committee has established that 'the obligations of States parties to provide redress under article 14 are two-fold: procedural and substantive. To satisfy their procedural obligations, States parties shall enact legislation and establish complaints mechanisms, investigation bodies and institutions, including independent judicial bodies, capable of determining the right to and awarding redress for a victim of torture and ill-treatment, and ensure that such mechanisms and bodies are effective and accessible to all victims. At the substantive level, States parties shall ensure that victims of torture or ill-treatment obtain full and effective redress and reparation, including compensation and the means for as full rehabilitation as possible.

Likewise, we wish to remind your Excellency's Government that according to paragraph 5 of the Committee Against Torture's general comment No. 2 (CAT/C/GC/2), no exceptional circumstances whatsoever (including a state of war or threat thereof, internal political instability or any other public emergency, any threat of terrorist acts or violent crime, armed conflict, international or non-international) may be invoked by a State party to justify acts of torture in any territory under its

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<sup>4</sup> See: [https://www.apt.ch/sites/default/files/publications/apt\\_PoEI\\_EN\\_11.pdf](https://www.apt.ch/sites/default/files/publications/apt_PoEI_EN_11.pdf).

jurisdiction.

*The right to freedom of association and peaceful assembly*

We also draw attention to article 21 of the ICCPR which states that ‘[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others’.

Article 22 of the ICCPR protects the right to freedom of association with others. States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards (A/HRC/17/27, para. 66; and A/HRC/29/25/Add.1).

We also refer to the fundamental principles in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. Articles 1 and 2 of the Declaration state that everyone has the right to promote and strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

We further highlight the rights in the UN Declaration on Human Rights Defenders: to form, join and participate in non-governmental organizations, associations or groups (article 5 (b)); to communicate with non-governmental or intergovernmental organizations (article 5 (c)); to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms and to study, discuss and hold opinions on the observance of these rights (article 6 points (b) and (c)); and to unhindered access to and communication with international bodies (article 9, paragraph 4, point (a)).