

Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Working Group on Arbitrary Detention and the Special Rapporteur on extrajudicial, summary or arbitrary executions

Ref.: UA THA 1/2025
(Please use this reference in your reply)

17 January 2025

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Working Group on Arbitrary Detention and Special Rapporteur on extrajudicial, summary or arbitrary executions, pursuant to Human Rights Council resolutions 52/7, 51/8 and 53/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning 48 Uyghur individuals, who have been detained in Thailand for almost 11 years, who may be at risk of imminent transfer back to the People's Republic of China, where it is feared they would face torture and/or other cruel, inhuman or degrading treatment or punishment or other irreparable harm.

The situation of these individuals, and other persons of Uyghur origin deprived of liberty in Thailand, was previously raised by a number of special procedures in allegation letter AL THA 2/2024. Unfortunately, no reply has so far been received to the letter. We therefore encourage Your Excellency's Government to address the substance of the allegations raised therein without delay.

According to the information received:

43 Uyghur individuals, who have been in situation of deprivation of liberty in Thailand, for approximately 12 years, are currently being held in the Thailand's Immigration Detention Center of the Office of the Immigration Bureau (Suan Phlu) in Bangkok.

Another group of 5 Uyghurs is reportedly being held in the Bangkok Central Prison, serving sentences linked to an escape attempt from immigration detention.

According to reports, they are all part of a larger group of approximately 350 persons who were arrested in 2014, after irregularly crossing the Thai border from Cambodia, aiming to reach Turkey.

It is alleged that the 48 individuals have been held in a situation of de facto incommunicado detention for over a decade. They have had no access to lawyers, family members; representatives of International Committee of the Red Cross (ICRC), the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations High Commissioner for Refugees (UNHCR). They could make no telephone calls and had access to the exercise yard only on occasion.

23 of the 48 individuals are reportedly known to suffer from serious health conditions, including diabetes, kidney dysfunction, paralysis of the lower body, skin diseases, gastrointestinal illnesses, heart and lung conditions. They reportedly were given access to health care, which was generally inadequate but only in extremely urgent cases of life-threatening circumstances, detainees were brought to a hospital. Following treatment, they were quickly returned to detention.

As a result, a number of the 48 individuals have allegedly developed serious health problems, both mental and physical, or experienced a severe deterioration of pre-existing health conditions, particularly in cases of chronic diseases.

It is reported that 5 Uyghur detainees died during their detention in the last 11 years. Two of them were reportedly children and allegedly no investigation was undertaken by relevant authorities.

According to reports, the 48 Uyghurs may shortly be transferred to the People's Republic of China, where it is feared they would face torture and/or other cruel, inhuman or degrading treatment or punishment and other irreparable harm. Moreover, we understand the group of 43 Uyghurs held in the Immigration Detention Centre had started a hunger strike since 13 January in protest of their future forced return to China and of their detention conditions.

While we do not wish to prejudge the accuracy of above-mentioned allegations, we are alarmed by the risk of imminent deportation of the individuals reported above to the People's Republic of China.

Special Procedures mandate holders have raised concerns in previous communications about the alleged widespread and grave violations of the rights of Uyghurs and other predominantly Muslim ethnic minorities in the Xinjiang Uyghur Autonomous Region (XUAR), including on the basis of their religion or belief, and on grounds of national security and preventing extremism (see UA CHN 7/2017, OL CHN 1/2018, OL CHN 21/2018, OL CHN 18/2019, AL CHN 14/2020, AL CHN 21/2020, AL CHN 18/2020, AL CHN 5/2021.)

We recall that the principle of non-refoulement forms an essential protection under international human rights, refugee, and customary law. It prohibits States from transferring or removing individuals from their jurisdiction or effective control when there are substantial grounds for believing that the person would be at risk of irreparable harm upon return, including persecution, torture, ill-treatment or other serious human rights violations.¹

Under international human rights law the prohibition of refoulement is explicitly included in the Convention against Torture and Other Cruel, Inhuman or

¹ See, inter alia, OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China: <https://www.ohchr.org/sites/default/files/documents/countries/2022-08-31/22-08-31-final-assesment.pdf>. In the report, OHCHR recommends that States should refrain from returning members of Uyghur and other predominantly Muslim minorities to China who are at risk of refoulement and provide humanitarian assistance, including medical and psycho-social support, to victims in the States in which they are located.

Degrading Treatment or Punishment (CAT), ratified by Thailand in 2007, as well as the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), ratified in 2024.

Additionally, section 13 of Thailand's Act on the Prevention and Suppression of Torture and Enforced Disappearance (2022) incorporates the principle of non-refoulement, prohibiting the expulsion, deportation or extradition of a person to another country where there are substantial grounds to believe that the person would be at risk of torture and other cruel, inhuman, or degrading treatment, or enforced disappearance.

We emphasize that the prohibition of torture is absolute and non-derogable. No circumstances, no matter how exceptional they may be, can ever justify torture or ill-treatment and any form of impunity for such acts.

Accordingly, we respectfully call on Your Excellency's Government to halt any plan to transfer the individuals reported above to the Peoples' Republic of China.

Furthermore, we recall that all persons deprived of liberty must always be treated in a humane manner and with respect for their inherent dignity, under any circumstances. They shall always have access, *inter alia*, to effective legal representation and adequate medical assistance; prompt judicial review of their deprivation of liberty; remedies for any violations; and the possibility to communicate with a lawyer of choice, their relatives and to be visited by independent human rights monitoring bodies.

We stress that inadequate conditions of detention, including lack of access to adequate medical care, can contribute to deaths and serious injury in detention. When such conditions are seriously inadequate, as it is alleged in the cases reported above, they can constitute an immediate or long-term danger to life. Detainees should enjoy at least the same level of access to health care as that available in the community, taking into account also the additional health risks linked to incarceration.²

In relation to the alleged deaths in custody of 5 individuals including two children, we would like to highlight the obligation to investigate all potentially unlawful deprivations of life and note that loss of life occurring in custody creates a presumption of arbitrary deprivation of life by State authorities, which can only be rebutted on the basis of a proper investigation, complying with international standards including the Minnesota Protocol on the Investigation of Potentially Unlawful Death.

On these basis, we warn against the risk that the reported allegations, if established, could also amount to a violation of the above-mentioned individuals' right to life, protected by article 3 of the Universal Declaration of Human Rights (UDHR)

² See Report of the United Nations High Commissioner for Human Rights, Human Rights in the administration of justice (A/HRC/42/20): <https://documents.un.org/doc/undoc/gen/g19/247/98/pdf/g1924798.pdf?OpenElement>. We also refer to the Nelson Mandela Rules, which offer extensive guidance to States on how to implement access to health care in detention: https://www.un.org/en/events/mandeladay/mandela_rules.shtml#:~:text=The%20Nelson%20Mandela%20Rules%20represent,safety%2C%20security%20and%20human%20dignity; and to the Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on the right to health in the context of confinement and deprivation of liberty (A/HRC/38/36): <https://documents.un.org/doc/undoc/gen/g18/101/42/pdf/g1810142.pdf?OpenElement>

and article 6 of the ICCPR; as well as of their right to the enjoyment of the highest attainable standard of physical and mental health, recognised in article 12 of the International Covenant on Economic, Social and Cultural Rights, ratified by Thailand in 1999.

We believe that the above-mentioned allegations could also amount to a violation of the right to liberty and security of the person, protected by articles 9 of the UDHR and the ICCPR; as well as the right to due process and fair trial, established in article 10 of the UDHR and 14 of the ICCPR.

In light of the above, we respectfully recommend that the above-mentioned individuals are provided, in Thailand, with urgent, adequate and comprehensive medical care, treatment and monitoring of their health situation, as appropriate, including in a civil hospital outside prison, if required. We stress that time is of the essence.

We also respectfully call for a prompt, effective investigation, and assessment of the circumstances of the arrest and continued deprivation of liberty of the above-mentioned individuals. Should it be found that they are being arbitrarily deprived of liberty, or in a manner inconsistent with international human rights standards, they should be released unconditionally, without delay. Those responsible, in case of any violation, should be brought to justice.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response as soon as possible on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

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 also be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide detailed information on the factual and legal grounds for the arrest and detention of the 48 above-mentioned individuals.
3. Please provide detailed information on steps taken or envisaged to be taken by the Government of Thailand to halt the reportedly imminent transfer of the 48 individuals reported above. If none was considered, please explain how this is compatible with the Government of Thailand international human rights obligations.
4. Please provide detailed and updated information on the current places and conditions of detention of the 48 individuals mentioned above and please assess them against international human rights law and standards, in particular the absolute prohibition of torture and other cruel, inhuman

or degrading treatment or punishment, including the requirement of humane and dignified treatment in detention. Please also explain how are they compatible with the protection of the right to life, health and well-being, including timely access to adequate medical care.

5. Should such conditions not be in alignment, please explain the steps that have been taken or are envisaged to be undertaken to remedy and improve them, and the timeframe for doing so. Within this context, please explain whether there has been any investigation into such allegations, as required by international law, and please provide the results of it, including in terms of accountability of persons responsible of any established violation.
6. Please provide detailed and updated information on the specific conditions of detention of the individuals mentioned above; their current health status and any measure taken or envisaged to be adopted to protect their life, ensure humane conditions and preserve their health and well-being, including timely access to adequate medical care, as appropriate.
7. Please provide information on any investigations undertaken into the alleged deaths in custody of 5 Uyghur individuals including whether these investigations complied with international standards including the the Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016).
8. Please provide information on measures taken by the Government of Thailand to implement the recommendations of the Committee Against Torture (CAT) concerning immigration detention and the principle of non-refoulement.³
9. Please explain how your Excellency's Government will guarantee the obligation of non-refoulement under international human rights and refugee law in relation to the abovementioned 48 individuals. Please explain how you will ensure that any return of these individuals to China is voluntary and takes place under conditions of free, prior and informed consent. In this regard, please provide information on the measures taken to ensure individualized examination of each person's situation and the risk of torture and other cruel, inhuman, or degrading treatment, or enforced disappearance that each individual may be subject to upon return to China.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. 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

³ CAT/C/THA/CO/2

investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please be informed that a copy of this letter has been also sent to the People's Republic of China.

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

Ganna Yudkivska
Vice-Chair on communications of the Working Group on Arbitrary Detention

Morris Tidball-Binz
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