

**Mandates of the Special Rapporteur on trafficking in persons, especially women and children; the Working Group on Arbitrary Detention; the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity and the Working Group on discrimination against women and girls**

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(Please use this reference in your reply)

9 July 2025

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on trafficking in persons, especially women and children; Working Group on Arbitrary Detention; Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 53/9, 51/8, 53/14, 51/21, 50/10 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning a transgender woman with disabilities and deteriorating health condition, charged with drug related offenses, despite indicators of trafficking in persons, and currently incarcerated in a male prison.

According to the information received:

Ms. Thanakorn Sinsanoi is a Thai trans woman with disabilities, who was arrested on 13 July 2013 at Kuala Lumpur International Airport (KLIA), Sepang, Selangor, on a drug trafficking offence. She is currently serving a 30 year sentence in a male prison facility.

Due to complications of a tuberculosis infection she suffered during her incarceration, Ms. Thanakorn Sinsanoi's mobility was severely affected and a stoma bag was installed in 2022. We have been informed that Ms. Thanakorn Sinsanoi has been unable to replace her stoma bag for almost three weeks due to a lack of available medical supplies at the prison. She is reportedly forced to endure living with uncleaned faeces and the unsanitary conditions and lack of appropriate medical care are causing her condition to deteriorate rapidly. The treatment room which was considered as the prison's medical facility at Pokok Sena Prison is in a poor and unhygienic condition, which only exacerbates her suffering. Since her last hospital check-up on 28 May 2024, no follow-up has been scheduled, and her surgical wounds and other health needs remain unattended. The situation is dire – her bed is soiled, fresh wounds are not properly cleaned, and flies were observed around her during the last visit in June 2024.

### *Background of Ms. Thanakorn Sinasanoi's case*

Ms. Thanakorn Sinsanoi was arrested on 13 July 2013 at Kuala Lumpur International Airport (KLIA), Sepang, Selangor, on a drug trafficking offence. where she was allegedly found in possession of a package containing 1,333 grams of Methamphetamine. She was subsequently charged with drug trafficking and sentenced to death on 30 November 2016. She has spent six years on death row and nine years in prison since her arrest.

Before her arrest, Ms. Thanakorn Sinsanoi was working as a sex worker in Thailand. A person she knew, "May", an alleged pimp in India, offered her to travel to India where she was told she would be able to find more work. After arriving in India and in the absence of the promised work, "May" arranged Ms. Thanakorn Sinsanoi's travel back to Thailand. "May" asked Ms. Thanakorn Sinsanoi to bring back to "May"'s family in Thailand several pieces of Indian sarees in her luggage.

Upon inspection at the Kuala Lumpur International Airport's Low-Cost Carrier Terminal, where Ms. Thanakorn Sinsanoi was in transit, authorities found several clothes, personal items, and eight cylinder-shaped packages wrapped in Indian sarees in her luggage. Five of these packages were found to contain a white crystallised substance, later verified as Methamphetamine.

Ms. Thanakorn Sinsanoi was initially sentenced to death penalty. In November 2023, as a result of Malaysia's abolition of death penalty through the enactment of the Abolition of Mandatory Death Penalty Act 2023 [Act 846] & Revision of Sentence of Death and Imprisonment for Natural Life (Temporary Jurisdiction of The Federal Court) Act 2023 [Act 847], Ms. Thanakorn Sinsanoi's sentence was revised. However, while the new legislation grants judges greater discretion in considering mitigating factors such as the nature of the offence, circumstances of the crime, and personal background before determining an appropriate sentence, the alternative to the death penalty is limited to a minimum of 30 years imprisonment and a maximum of 40 years, with whipping of at least 12 strokes. Ms. Thanakorn Sinsanoi underwent her resentencing hearing on 14 February 2024 and despite her lawyer's efforts to advocate for an early release in light of her deteriorating condition, she was resentenced to 30-year prison sentence from the date of arrest in July 2013, along with a sentence of 12 strokes in line with Act 847. A further request for a reduced prison sentence and waiving of the mandatory whipping was denied by the court as it was considered outside the purview of the resentencing legislation.

Given that trans people are not recognized by law in Malaysia, the prison department assigns prisoners based on gender markers on legal documents and status or stages of medical transition. As a result, Ms. Thanakorn Sinsanoi is currently serving her sentence in a male prison facility. According to the information received, in all situations they are segregated from the general prison population. In this regard, the Human Rights Commission of Malaysia (SUHAKAM) has noted in their "The Right to Health in Prison" 2017 report that there is no standardised policy concerning the placement of transgender persons in prisons.

During her incarceration, Ms. Thanakorn Sinsanoi suffered from a tuberculosis infection that derived in a Spinal Tuberculosis (TB spine). According to medical reports she is bedridden since 2020. She was also diagnosed with intestinal obstruction secondary to Abdominal Tuberculosis (TB Gut) in March 2021 and suffers from lower limb paralysis secondary to Spinal Tuberculosis (TB spine), accompanied by prominent muscle atrophy, which was diagnosed in March 2022. As a result of complications of her medical condition, a double barrel stoma was installed in July 2022. Since then, Ms. Thanakorn Sinsanoi has been in hospital several times, primarily for intestinal stricture, intestinal obstruction, and stoma adjustments.

Ms. Thanakorn Sinsanoi can only manage a semi-sitting position to wash the upper part of her body (head to waist) with wet tissues. Cleaning from the waist down requires assistance from medical assistants or trained prison staff (Medical Orderly) according to medical reports. According to these reports, she needs to be turned (to the left or right side) every 6 hours to prevent bedsores, and the stoma bag and urinary catheter must be changed at scheduled times to prevent infections that would necessitate hospital treatment. She can only tolerate soft foods due to impaired bowel function and due to numbness in her hands, also due to complications of the Spinal Tuberculosis, she is not able to feed herself. According to information received these tasks are currently performed by other inmates.

According to information received, in her last court appearance on 14 February 2024, the prison department was directed to have her incarcerated in the prison clinic. Her doctor also provided a recommendation for her to be released as soon as possible due to her health condition.

While we do not wish to prejudge the accuracy of these allegations, we believe the circumstances of the case raise concerns to several human rights violations, especially, regarding the situation of Ms. Thanakorn Sinsanoi as a potential victim of trafficking in persons for the purpose of forced criminality. The situation described would contain elements and indicators of trafficking in persons as per the definition set in article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), ratified by your Excellency's Government on 26 February 2009 which defines trafficking in persons as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs". Failure to identify Ms. Thanakorn Sinsanoi as a victim of trafficking may have resulted, not only in denial to the right of protection and assistance to a victim of trafficking in persons, as per international obligations, but also in a failure to apply the non punishment principle, explicitly enshrined in the ASEAN Convention Against Trafficking in Persons, Especially Women and Children, article 14, ratified by your

Excellency's Government on 7 September 2017.

*Concerns regarding her situation as a potential victim of trafficking*

In addition to concerns above we would like to reiterate the obligations emanating from article 6 of the Palermo Protocol, concerning assistance to and protection of victims of trafficking in persons, including implementation of measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations. Article 6 also calls States to take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care. States shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.

In this regard, we wish to highlight the importance of ensuring effective implementation of the non-punishment principle, and in particular the obligation to ensure the prompt and effective identification of victims of trafficking in order for the principle to be effectively applied. As reiterated by the Special Rapporteur on trafficking in persons, especially women and children in her report to the Human Rights Council in 2021, recalling the European Court of Human Rights, “effective implementation of the non-punishment principle is essential to ensuring that States’ duties to take protective operational measures of assistance and protection, including of non-refoulement, are met. In its decision in *V.C.L. and A.N. v. United Kingdom*, the European Court of Human Rights recognized that prosecution may conflict with the State’s duty to take operational measures to protect a victim, or potential victim, “where they are aware, or ought to be aware, of circumstances giving rise to a credible suspicion that an individual has been trafficked”. Highlighting a core purpose of the non-punishment principle, the Court held that it was “axiomatic” that prosecution would be injurious to a victim’s “physical, psychological and social recovery and could potentially leave them vulnerable to being re-trafficked in future” (A/HRC/47/34, para. 28).

We also highlight the obligation to ensure that, “the principle of non-punishment is applied to: (a) All forms of trafficking, including for the purpose of sexual exploitation, labour exploitation and forced criminality, as well as to both cases of international trafficking and cases of internal trafficking; (b) Any unlawful activity carried out by a trafficked person as a direct consequence of their trafficking situation regardless of the gravity or seriousness of the offence committed; (c) Criminal, civil, administrative and immigration offences, as well as other forms of punishment, [...]; (d) Any situation of deprivation of liberty, including immigration detention and detention pending removal, transfer or return proceedings.” (A/HRC/47/34, para. 57).

Finally, we also wish to recall that “the obligation to ensure the effective application of the non-punishment principle rests on the State, arising from its positive obligation to take protective operational measures of identification, protection and effective investigation. Where criminal proceedings have already commenced, the burden of vacating a guilty plea or initiating an abuse of process or judicial review does not rest with the victim of trafficking; it rests with the State, as a positive obligation to ensure non-punishment and an essential requirement of States’ obligation of due

diligence” (A/HRC/47/34 para. 47).

Given the particular circumstances of this case, we also wish to recall obligations as enshrined in article 5 of the Palermo Protocol, calling State parties to ensure effective implementation of the obligation of criminalization for trafficking in persons for all its purposes, including forced criminality. We recall as well, article 8 regarding repatriation of victims, as well as article 9 regarding prevention measures.

In addition, as anticipated above, we wish to highlight that any failure to provide assistance and protection to victims, would be a violation of the ASEAN Convention Against Trafficking in Persons, Especially Women and Children, notably article 14 regarding obligations of identification, assistance and protection of victims, especially article 14(7) regarding non-punishment principle, and article 16 on law enforcement and prosecution. Further, we highlight the obligations arising under article 16(2) of the ASEAN Convention, to detect, deter and punish corruption, that contributes to trafficking in persons.

We are also concerned that the lack of identification of Ms. Thanakorn Sinsanoi as a victim may have led to a failure to undertake effective investigations into allegations of trafficking in persons, or to ensure international cooperation in the investigation of trafficking in persons leading to a lack of accountability for this serious human rights violation and serious crime, and continued impunity for trafficking in persons.

In addition, we would like to refer to the Recommended Principles and Guidelines on Human Rights and Human Trafficking, issued by the Office of the High Commissioner for Human Rights in July 2002, complemented by an accompanying Commentary published in 2011. In particular, we would like to refer to principle 7 regarding non punishment of victims for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons as well as principle 8 and 9 regarding adequate protection and assistance, including access to adequate and unconditional physical and psychological care, as well as legal assistance for the duration of any criminal, civil or other actions against suspected traffickers. We recall as well, principle 11 regarding safe return to her country of origin, if the victim so wishes, or alternatives to repatriation if there is a concern for her safety. recalling the international legal rights of trafficked persons as victims of human rights violations to adequate and appropriate remedies, including compensation. Finally, principle 13 of the Principles and Guidelines states that "States shall effectively investigate, prosecute and adjudicate trafficking, including its component acts and related conduct, whether committed by governmental or non-State actors".

We would also like to remind you of its obligations under articles 2 and 6 of the Convention on the Elimination of All Forms of Discrimination against Women, ratified by your Excellency’s Government on 5 July 1995, which requires States parties to take all appropriate measures, including legislation, to suppress all forms of trafficking in women. We also recall CEDAW general recommendation No. 38 on trafficking in women and girls in the context of global migration (CEDAW/C/GC/38). In general recommendation No.38 the Committee on the Elimination of All Forms of Discrimination against Women stated that ‘trafficking in women and girls is

exacerbated, among others factors due to the breakdown of political, economic and social structures, instability and poor governance, including the absence of the rule of law, increased militarism, the availability of small arms, the weakening or loosening of community and family ties, the high incidence of widowhood and the ‘normalisation’ of gender-based violence, including conflict-related sexual violence, as an aggravating factor of pre-existing structural gender-based discrimination against women and girls’ (CEDAW/C/GC/38, paragraph 34). In this context, we would like to refer to paragraph 33 of the General Recommendation to remind your Excellency's government that ‘the obligations of States parties do not cease in the context of states of emergency resulting from conflicts, political events, health crises or natural disasters. Women and girls are more vulnerable to gender-based violence, including trafficking, when they are unable to meet their basic needs.

Also, the Working Group on Discrimination against Women and Girls, in its report on women deprived of their liberty (A/HRC/41/33), stated that lack of choice and opportunities push women into the realm of human trafficking, contemporary forms of slavery and exploitative surrogacy arrangements that may result in varied forms of confinement, exploitation and violence (paragraph 60). Women experience imprisonment in ways that are unique to them and they are often exposed to greater discrimination, stigmatisation and violence because of their gender. Their experiences will also differ not only because of gender dynamics but also because of factors such as age, disability, race, ethnic origin or socio-economic status, which combine to create distinct situations of discrimination and vulnerability (paragraph 13).

We call your Excellency’s Government attention to the observations and recommendations made by the Committee on the Elimination of Discrimination against Women on 6 June 2024 in its Concluding Observations (CEDAW/C/MYS/CO/6, paras. 28-29): “The Committee commends the State party on its efforts to strengthen its legal and policy framework to combat trafficking in women and girls, including the amendments to the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 to harmonize the Act with the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the adoption of the third National Action Plan to Combat Trafficking in Persons for 2021–2025. However, it notes with concern that women and children continue to be at particular risk of human trafficking and account for the majority of trafficking victims in the State party. While noting the establishment of a formal procedure to identify and refer victims to appropriate support services, the Committee notes with concern that the protocol is not consistently applied, including during raids of entertainment venues and massage parlours, and that victims of trafficking are often detained and deported. Recalling its previous recommendations (CEDAW/C/MYS/CO/3-5, para. 26) and general recommendation No. 38 (2020) on trafficking in women and girls in the context of global migration, the Committee recommends that the State party: (a) Ensure that all victims of trafficking, including refugee, asylum-seeking and undocumented migrant women, have access to temporary residence permits, irrespective of their ability or willingness to cooperate with the prosecution authorities, as well as shelters, health care, psychosocial counselling, rehabilitation programmes and reparations, including compensation; (b) Ensure that all cases of trafficking in women and girls are investigated and prosecuted and that perpetrators, including complicit government officials, are adequately punished, in accordance with the Anti-Trafficking in Persons

and Anti-Smuggling of Migrants Act 2022; (c) Enforce and monitor the use of the National Guidelines on Human Trafficking Indicators 2.0 to ensure a uniform and systematic approach to early victim identification, including in immigration detention, and referral to appropriate services and protection; (d) Provide systematic capacity-building to immigration officials, border police and other law enforcement officers on the application of the national legal and policy framework to combat trafficking in women and girls and gender sensitive protocols for the early identification of victims.”

*Concerns regarding her situation as a transgender woman in a male prison*

Ms. Thanakorn Sinsanoi’s imprisonment in a male prison and current dependency on other inmates for immediate day-to-day care needs raises serious concerns regarding her safety and well-being, as transgender individuals placed in facilities that do not align with their gender identity face a heightened risk of self-harm, violence, harassment, and discrimination.

In this regard we wish to draw your Excellency’s government attention to the UN Committee on the Elimination of Discrimination against Women (CEDAW), in its general recommendation No. 33, which emphasises the need for accessibility in justice systems that are adapted and appropriate to the needs of women, including those facing intersecting forms of discrimination, such as transgender women.

Ms. Thanakorn Sinsanoi's placement in a male prison, without due consideration for her gender identity and the associated risks, may constitute a violation of her right to security and personal integrity, as well as her right to freedom from discrimination. Associated risks also include risks to sexual abuse by wardens and other inmates. As mentioned above day to day care is currently provided for by other inmates who are men, placing Ms. Thanakorn Sinsanoi in a highly vulnerable position.

*Concerns regarding her situation as a person with disabilities*

Due to Ms. Thanakorn Sinsanoi’s medical condition and hemiplegia, she requires assistance from other prison inmates for all aspects of her daily life, including basic necessities and care. We are concern that the alleged lack of appropriate medical care and accommodation due to the limited resources and restrictive conditions in prison incurs in a violation of international obligations as established in Convention of the Rights of Persons with Disabilities, ratified by your Excellency’s Government on 18 July 2013. In particular, we would like to raise concerns regarding article 9 which requires State Parties to ensure accessibility for persons with disabilities to live independently and participate fully in all aspects of life, including access to physical environments, facilities, and services open to the public. This includes the identification and elimination of obstacles and barriers to accessibility in indoor and outdoor facilities, including prisons as well as medical facilities and emergency services.

We are also concern that Ms. Thanakorn Sinsanoi's resentencing to a 30-year prison term, the minimum sentence under Act 847, despite her severely deteriorating health and reliance on other inmates for basic care, raises concerns regarding the court's consideration of her individual circumstances and her rights under article 12 of the CRPD. This article emphasises the right to equal recognition before the law and calls upon States Parties to provide necessary support for persons with disabilities in

exercising their legal capacity. The imposition of a lengthy prison sentence, seemingly without adequate consideration of her disability and its impact on her ability to navigate prison life, suggests a concerning disregard for her individual needs.

We would also like to raise concerns regarding Malaysia compliance with article 14 of the CRPD which outlines the right to liberty and security of persons with disabilities, and states that States “shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation”. The reported lack of appropriate accommodation and support for Ms. Thanakorn Sinsanoi’s disability in her current detention setting may constitute a violation of article 14, as she may not be receiving equal treatment or reasonable accommodation compared to other prisoners without disabilities. In this regard we would also like to raise concerns regarding article 17 on the right of persons with disabilities to have their physical and mental integrity respected on an equal basis with others. The lack of accessibility and reasonable accommodation, which places persons with disabilities in substandard conditions, may also constitute a violation of article 17 as well as, in this case, and taking into account Ms. Thanakorn Sinsanoi conditions in prison, a breach of the prohibition against cruel, inhuman, or degrading treatment or punishment under article 15 of the CRPD, as well as article 5 of the Universal Declaration of Human Rights. Moreover, it could also constitute a breach of article 25 of the CRPD, which requires States, inter alia, to provide those health services needed by persons with disabilities specifically because of their disabilities and to prevent discriminatory denial of healthcare or health services on the basis of disability.

Finally, we would also like to recall article 13 concerning equal access to justice, and obligations regarding adoption of all necessary measures to ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages. This also includes appropriate training for those working in the field of administration of justice, including police and prison staff.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://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 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 any information if any consideration was given, during the criminal proceedings against Ms. Thanakorn Sinsanoi, to evidence of trafficking in persons for forced criminality and the possibility of Ms. Thanakorn Sinsanoi being a victim;
3. Please provide information on the measures being taken to ensure compliance with the State's obligation of due diligence to prevent trafficking in persons, including, in particular, victims of trafficking for forced criminality, and to ensure early identification and effective access to protection, and access to effective remedies, including to compensation. Further, please provide information on how these measures are accessible for and include persons with disabilities;
4. Please provide information of any measures taken to ensure the principle of non punishment of victims of trafficking in persons is adequately and promptly applied as soon as there are reasonable grounds that a person is a victim of trafficking, and especially in cases of trafficking in persons for forced criminality;
5. Please provide information on measures taken to ensure that the human rights of Ms. Thanakorn Sinsanoi are being protected and fulfilled, as per obligations set forth in the Convention of the Rights of Persons with Disabilities, specifically regarding procedural accommodations during the judicial process, as well as appropriate accommodation, accessibility and adequate health care during her detention.
6. In view of the urgency of the matter, we would appreciate a response on the steps currently considered by your Excellency's Government to safeguard the above-mentioned person in compliance with international instruments and human rights norms.

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.

We would also 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 or not the deprivation of liberty was arbitrary. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the urgent appeal and the regular procedure.

While awaiting a reply, we urge the authorities to re-consider the case of Ms. Thanakorn Sinsanoi, taking into account the elements and circumstances of the case that, as exposed above, could give reasonable ground to the consideration of Ms. Thanakorn Sinsanoi as a victim of trafficking in persons. In this regard we reiterate obligations in the application of the principle of non punishment and urge the authorities to the immediate release and referral to appropriate support services. In addition, and in

line with the effective application of the principle of non punishment, we urge your Excellency's Government to take all necessary measures to provide for expungement or sealing of all related criminal records and relief of any sanctions imposed. Pending the implementation of a specific legal provision on non-punishment, we recall that States should comply with their non-punishment obligation by interpreting existing domestic legal norms, including defences of duress or a state of necessity, as general clauses of exemption of liability. As stated by the Special Rapporteur on trafficking in persons, especially women and children in A/HRC/47/34, "States should ensure that those defences are adapted to the trafficking context, recognizing the many subtle forms of coercion experienced by victims of trafficking, including abuse of a position of vulnerability and all the means set out in the definition of trafficking".

We may continue to publicly express our concerns in the near future on this case, which in our view merits prompt and undivided attention, as Ms. Thanakorn Sinsanoi life is at stake. We also believe that this matter is one of public concern and that the public should be informed about it, and about its human rights implications. Any public expression of concern from our part would indicate that we have been in contact with your Excellency's Government's to clarify the issues in question.

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

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