

Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the independence of judges and lawyers

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(Please use this reference in your reply)

1 October 2025

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; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on the independence of judges and lawyers, pursuant to Human Rights Council resolutions 52/7, 54/14, 53/4 and 53/12.

In this connection, we would like to bring to the attention of your Excellency's Government concerns regarding the disciplinary sanctions and punishments imposed during military conscription in Thailand and deeply worrying associated allegations of arbitrary deprivation of life, torture and other cruel, inhuman or degrading treatment or punishment, and enforced disappearances.

We have received information concerning the Ministry of Defence Order No. 1379/2567, dated 15 November 2024 ("the Order"), supplementing the implementation of the Prevention and Suppression of Torture and Enforced Disappearance Act B.E. 2565 (2022) ("the PSTED Act").

While we acknowledge that the adoption of the Order may be intended to strengthen legal safeguards against torture and other ill-treatment, particularly in relation to the investigation of such acts, concerns have nevertheless been expressed that, under the Order, allegations of torture or other ill-treatment may not be investigated in full compliance with international human rights standards, which require, *inter alia*, independence, impartiality, effectiveness, promptness, and transparency.

According to the information received:

Military conscription is compulsory for all Thai male citizens upon reaching the age of 21 years selected from the nationwide annual military draw (lottery) conducted typically in April. Exemptions or deferments may apply to individuals who have completed certain forms of military training, are engaged in specific educational programs, or meet health- or religious-based exemption criteria. The length of military conscription is 6 months for those who volunteer and 12-24 months for those elected through the lottery.

Military conscription and disciplinary training practices in Thailand have raised human rights concerns including allegations of torture and ill-treatment of military recruits.

Conscripts in the Thai military are said to be often subjected to corporal punishment, excessive physical exertion, and psychological abuse. In some instances, these have allegedly resulted in severe injuries or even loss of life.

All individuals subject to conscription must undergo physical fitness and medical examinations prior to recruitment. There have been concerns raised about the adequacy, consistency and independence of these examinations. Some reported suspicious deaths during military conscription have been attributed to pre-existing medical conditions.

It has been asserted that the military's senior leadership and internal justice system have been neither adequately addressing nor deterring alleged abuses.

At least 13 alleged cases of deaths and/or serious injuries among conscripts in military camps have occurred between February 2023 and October 2024. One case has been adjudicated by the Criminal Court for Corruption and Misconduct Cases, Region 2 and the defendants were reportedly found guilty of criminal offences, including acts amounting to torture or ill-treatment, and were sentenced to imprisonment. The other case is pending before the Criminal Court for Corruption and Misconduct Cases, Region 5.

To address shortcomings pertaining to deterrence and accountability in the military context, the Ministry of Defence Order No. 1379/2567 was adopted on 15 November 2024.

Section 4 of the Order, titled 'Measures for action following incidence of punishments or penalties not complying with law and military custom', is the key provision governing investigative procedures in relation to incidents involving torture or ill-treatment allegedly committed by military personnel and other relevant officials governed by the Order.

In such cases, the direct higher-ranking commanding officer shall conduct a preliminary fact-finding investigation to determine whether the allegations are substantiated by evidence.

Where the preliminary investigation finds the case to be serious, a disciplinary investigation committee is established to investigate the offender, who shall be suspended from duty during such investigation.

According to the Military Discipline Act B.E. 2476 (1933), disciplinary violations include disobedience, evasion and negligence of direct command of commanding officers, inappropriate behaviour and laziness.

According to Sections 4.1.1 and 4.1.2 of the Order, whether a case is considered a serious one rests solely on the findings of the internal investigative procedure, with no other oversight mechanism. Such a procedure would not be considered to satisfy the requirements of independence, impartiality and transparency for investigations into torture or other related ill-treatment (see A/HRC/52/30).

Relying exclusively on officers ranked directly above alleged offenders in the chain of command to conduct preliminary investigations, and on an internal committee to investigate more serious cases, may create a potential risk of conflict of interest and ultimately lead to underreporting of cases and a lack of accountability.

Following the investigation, the committee may refer the case to military jurisdiction for prosecution. This, however, would allegedly be in contradiction with the PSTED Act which mandates that all such cases fall under the jurisdiction of civilian courts, including when the offender comes within the jurisdiction of the Military Court.

The United Nations Committee against Torture expressed concerns in relation to investigating allegations against Thai security forces under the PSTED Act in its concluding observations on the second periodic report of Thailand (CAT/C/THA/CO/2) in November last year.¹

Complaints by conscripts can be made to the National Committee on the Prevention and Suppression of Torture and Enforced Disappearances, which is then mandated to carry out an investigation (article 19 PSTED Act).

Penalties for torture under the Act would be a term of imprisonment of five to fifteen years and a fine of between 100,000-300,000 Baht. If the victim suffers serious injuries, the offender shall be liable for a term of imprisonment of ten to 25 years and a fine of 200,000 to 500,000 Baht. If death results, the term of imprisonment increases to between 15 and 30 years or life imprisonment and a fine of 300,000-1,000,000 Baht. For offences of “cruel, inhuman or degrading treatment” the offender is liable to a term of imprisonment not exceeding three years and a fine not exceeding 60,000 Baht.

While we do not wish to prejudge the accuracy of the above-mentioned allegations, we are concerned that, should they be established, there is a risk that investigations into allegations of arbitrary deprivation of life, torture and other cruel, inhuman or degrading treatment or punishment and enforced disappearances conducted pursuant to Ministry of Defence Order No. 1379/2567, may not fully comply with relevant international human rights norms and standards, which could lead to a lack of accountability for perpetrators and justice for victims.

We wish to remind your Excellency’s Government that the prohibition of arbitrary deprivation of life, torture and other cruel, inhuman or degrading treatment or punishment, are set forth in article 3 and 5 of the Universal Declaration of Human Rights (UDHR); as well as articles 6, 7 and 10 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Thailand on 29 October 1996; and, *inter alia*, in articles 1, 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified on 2 October 2007. The prohibition of on torture is absolute and non-derogable and a jus cogens norm of international law. Attached to such prohibition are obligations to criminalize and

¹ [CAT/C/THA/CO/2](#)

investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment; to prosecute suspects; to punish those responsible; and to provide remedies to victims, as established in articles 2(2), 2(3), 4, 5, 12, 13,14, and 15 of CAT.² Likewise, the prohibition of enforced disappearance attained the status of jus cogens and is also enshrined in the International Convention for the Protection of All Persons from Enforced Disappearance, ratified in 2024; and the United Nations Declaration on the protection of all persons from enforced disappearance.

States must ensure that investigations into allegations of torture or other cruel, inhuman or degrading treatment or punishment are carried out in a prompt, impartial and effective manner by an independent body. There must be victim involvement and public scrutiny.³ In addition, States are required to investigate any suspicious death, in accordance with international standards set out in the Minnesota Protocol on the Investigation of Potentially Unlawful Deaths, to establish the cause, manner and circumstances of death and determine whether an arbitrary deprivation of life occurred, thereby triggering obligations, where appropriate, to prosecute those responsible and ensure reparation for victims and their families.

According to art. 12 of the International Convention for the Protection of All Persons from Enforced Disappearance, ratified by Thailand on 14 May 2024, and art. 13 of the Declaration on Declaration on the Protection of all Persons from Enforced Disappearance, each State shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority.

The definition of torture in article 1 of the CAT and incorporated in PSTED Act should be the only one applied by the Ministry of Defence in respect of Order No. 1379/2567.

Neither disciplinary measures nor punishment for more serious crimes or breaches of military codes can ever involve the use of force, violence or corporal punishment as that would conflict with the prohibition on torture and other ill-treatment or punishment.

There can be no effective torture prevention if the same authorities against whom allegations are being made are themselves investigating their peers, subordinates or superiors. If investigators are not hierarchically, administratively and financially independent of the authorities they are investigating, there is an irreconcilable conflict of interest.⁴ The principle of impartiality applies to all persons involved in investigating incidents or in taking decisions in reference to incidents.

² For a full explanation on the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment and the related States' obligations to criminalize, investigate and prosecute crimes of torture and other ill-treatment, see Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment ([A/77/502](#)); and Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Good practices in national criminalization, investigation, prosecution and sentencing for offences of torture ([A/HRC/52/30](#)).

³ See Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2022 edition) - [Chapter III Legal Investigation of Torture or Ill-Treatment 44\[184\]](#).

⁴ See A/HRC/52/30, quoted above, footnote 3.

We stress that the rules on impartiality and independence apply to civilian as well as military investigations.⁵ The Committee against Torture in its review of Thailand made clear that there should be no hierarchical or institutional links between investigators and alleged perpetrators when investigating allegations of torture or ill-treatment and enforced disappearances.⁶

We recall that the jurisdiction of military tribunals should be limited to offences of a strictly military nature committed by military personnel, in other words to offences that by their own nature relate exclusively to legally protected interests of military order.⁷

Furthermore, there should be no resort to the concept of service-related acts to displace the jurisdiction belonging to the ordinary courts in favour of military tribunals.⁸

At a minimum, any military procedures should never operate to prohibit the complainant from seeking redress in civilian courts or national human rights bodies under the PSTED Act. Military authorities should further assume responsibilities to refer all cases of alleged torture or other cruel, inhuman or degrading treatment or punishment to independent investigators and to cooperate fully with those investigations.

The jurisdiction of ordinary courts should therefore generally prevail over that of military courts to conduct inquiries into alleged offences involving serious human rights violations, such as torture and other cruel, inhuman or degrading treatment or punishment, and to prosecute and try persons accused of such crimes, in all circumstances, including when the alleged acts are committed by military personnel.⁹

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 explain the compatibility of the Military Discipline Act B.E. 2476 (1933) and the Ministry of Defence Order No. 1379/25 with Thailand's international human rights obligations, particularly as they arise from the absolute prohibition of the arbitrary deprivation of life, torture and other cruel, inhuman or degrading treatment or punishment and enforced disappearances.

⁵ Ibid.

⁶ Ibid [16].

⁷ See Report of the Special Rapporteur on the independence of judges and lawyers ([A/68/285](#)).

⁸ Ibid.

⁹ Ibid.

3. Please provide information on how the military and the ordinary jurisdiction interact, as regulated under the Ministry of Defence Order No. 1379/2567 and any other applicable law. Please clarify under what circumstances alleged cases of torture or other cruel, inhuman or degrading treatment or punishment are brought for examination before the military jurisdiction, and under what circumstances the ordinary jurisdiction applies.
4. Please clarify how the international legal requirements of prompt, impartial, and effective investigations into allegations of serious human rights violations are conducted by an independent body. In particular please assess the Thai legal framework in respect of articles 12 and 13 of the Convention against torture.
5. Please provide clarification that the definition of torture in article 1 CAT, as contained in PSTED Act, is the one applied by the Ministry of Defence in respect of assessing conduct under Order No. 1379/2567. If it is not the definition applied, please explain why and what other definition is applied.
6. Please provide information on the number of allegations received and investigated under the Ministry of Defence Order No. 1379/2567, involving deaths, torture or other cruel, inhuman or degrading treatment or punishment, or enforced disappearances, and please indicate the outcome of any such investigations.
7. Please clarify how cases of enforced disappearances, which may also qualify as forms of torture and/or other cruel, inhuman or degrading treatment or punishment, are handled in law and practice.

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 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

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Gabriella Citroni

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Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to recall your Excellency's government's obligations under international human rights law, as follows.

Article 5 of the Universal Declaration of Human Rights (UDHR); articles 7 and 10 of the International Covenant on Civil and Political Rights (ICCPR); and *inter alia*, articles 1, 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) establish the absolute prohibition of torture or other cruel, inhuman or degrading treatment or punishment. We wish to recall that the prohibition of torture is an erga omnes and jus cogens norm. It is absolute and non-derogable, and it applies in all contexts with "no exceptional circumstances whatsoever",¹⁰ including orders from "a superior officer or a public authority".¹¹

Attached to such prohibition are obligations to "ensure that all acts of torture are offences under its criminal law",¹² and to "make these offences punishable by appropriate penalties which take into account their grave nature".¹³ The State has an obligation to "ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction".¹⁴ Furthermore, States must ensure that victims have "the right to complain to" and have their case "promptly and impartially examined by, its competent authorities",¹⁵ and that they "obtain redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible".¹⁶ In the event of "death as a result of an act of torture", his dependents shall be entitled to compensation.¹⁷

Moreover, States have a duty to act as soon as a complaint has been lodged or, in the absence of a complaint, to investigate ex officio "wherever there is reasonable ground to believe that an act of torture has been committed in any territory under their jurisdiction".¹⁸

In this regard, we also wish to recall the Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2022 edition). The Istanbul Protocol and the accompanying "Istanbul Principles" serve as a global standard against which the delivery of expert legal and medical evidence can be benchmarked in the investigation and prevention of torture.¹⁹

¹⁰ CAT art 2(2).

¹¹ CAT art 2(3).

¹² CAT art 4(1).

¹³ CAT art 4(2).

¹⁴ CAT art 12.

¹⁵ CAT art 13.

¹⁶ CAT art 14(1).

¹⁷ Ibid.

¹⁸ Convention against Torture, art. 12; Nelson Mandela Rules, rule 71; A/HRC/52/30 (n 5) page 14.

¹⁹ A/HRC/RES/16/23 [3].

The Istanbul Protocol should appeal to a wide variety of stakeholders, including States, civil society, doctors, psychologists, social workers, lawyers, forensic specialists, asylum officers, human rights officers and many others.

Principle 2, which addresses prompt, independent and effective investigations, provides that States should establish “mechanisms with full investigatory powers that are institutionally and functionally independent such as independent police complaints commissions or ombudspersons, to ensure impartiality”. Prompt investigations ensure timely evidence gathering, which protects the integrity of process and the broader administration of justice. Investigations should be commenced “within hours, or, at the most, a few days after the suspicion of torture or ill-treatment has arisen, and to be conducted expeditiously throughout”. Furthermore, principle 6 emphasizes that “States must ensure that investigations are carried out through an independent commission of inquiry or similar procedure. Members of such a commission should be chosen for their recognized impartiality, competence and independence as individuals. In particular, they must be independent of any suspected perpetrators and the institutions or agencies that they may serve”.

It is the position of the Special Rapporteur that any complaints of torture and other ill-treatment should be reported to judicial or other independent authorities immediately (within hours) and no later than 24 to 48 hours after complaints or allegations of torture are made known. Any delays are to be explained and documented in writing and such decisions must be open to judicial challenge.²⁰

In relation to the rights of victims in the context of investigations, principle 6 provides that alleged victims of torture or ill-treatment should “have the right to complain about such treatment and to have such complaints promptly and impartially examined and the right to an effective remedy”.

Finally, investigations must be pursued with rigor to be capable of leading to the truth and, where appropriate, the prosecution of suspects. Authorities must make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions to close their investigations. In some situations, a presumption of unlawful conduct may arise, for example, where an individual is in good health at the time of being taken into police custody but is found to be injured at time of release. Evidence preservation measures ought to stipulate that data from closed circuit television, body cameras and other electronic systems be collected and stored off-site, that is, outside the prison or police station and without the ability of anyone to tamper with such evidence.²¹

The prohibition of enforced disappearance has attained the status of *jus cogens*. Notably, according to the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances, the failure to acknowledge the deprivation of liberty of an individual by State agents constitutes an enforced disappearance even if it is of a short duration (CED/C/11). Furthermore, enforced disappearance violates article 6 (right to life), article 7 (prohibition of torture or cruel, inhuman or degrading treatment or punishment), article 9 (liberty and security of

²⁰ A/HRC/52/30 (n 5) [16].

²¹ Ibid [14].

person), article 10 (right to be treated with humanity and dignity) and article 16 (right to recognition as a person before the law), read alone and in conjunction with article 2.3 (right to effective remedy) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Thailand on 14 Mayo 2024 (Human Rights Committee, general comment No. 35, para. 17; general comment No. 36, paras. 57-58). In addition, according to art. 12 of the International Convention for the Protection of All Persons from Enforced Disappearance, ratified by Thailand on 14 May 2024, and art. 13 of the Declaration on Declaration on the Protection of all Persons from Enforced Disappearance, each State shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority.