

Draft Prevention and Suppression of Torture and Enforced Disappearance Act

B.E.

(People version)

**Memorandum of Principle and Rationale of
Draft Prevention and Suppression of Torture and Enforced Disappearance Act
B.E.**

Principle

To promulgate a law on prevention and suppression of torture and enforced disappearance to protect the rights to life, liberty and bodily and mental integrity of all persons without any discrimination and to implement effective measures to prevent torture, cruel, inhuman or degrading treatment or punishment, and enforced disappearance with the State having the duty to act promptly to ensure the victims' wellbeing and safety, support and help the victims effectively, including compensation and remedy for their physical and mental damage, monitoring and investigation of complaints to bring perpetrators to justice, and implementation of measures to prevent recurrence of the violations.

Rationale

Whereas torture, other cruel, inhuman or degrading treatment or punishment and enforced disappearance by public officials are considered severe violations of human rights and unacceptable under any circumstances and since Thailand is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and has signed the International Convention for the Protection of All Persons from Enforced Disappearance; therefore, it is necessary to have the provisions that specifically determine the offenses as well as measures to prevent and suppress the commission of offenses, remedy the affected person, and other relevant measures to facilitate effective compliance with requirements of such conventions, which will raise Thailand's standard of human rights protection to be on par with international standards. Thus, it is essential to promulgate the law on prevention and suppression of torture and enforced disappearance.

Draft
Prevention and Suppression of Torture and Enforced Disappearance Act
B.E.

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Whereas it is expedient to have a law on prevention and suppression of torture and enforced disappearance;

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Title of the Act **Section 1** This Act shall be called the “Prevention and Suppression of Torture and Enforced Disappearance Act, B.E.”

Effective Date **Section 2** This Act shall come into force upon the expiration of the 120-day period from the date of its publication in the Government Gazette.

Effects on Other Legislation **Section 3** All other laws, rules, requirements, regulations, announcements and orders, in so far as they are already provided for by this Act, or

are contrary to or inconsistent with the provisions of this Act, shall be replaced by this Act, except where any law has stricter provisions to protect the rights to life, liberty and bodily and mental integrity of an individual than those of this Act, such law shall apply.

Definitions

Section 4 In this Act:

“Torture” means any act:

(1) committed either by a public official or any person at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity; and

(2) involves the infliction, through any means, of severe pain or suffering, whether physical or mental, on a person for any one of the following purposes:

(1) To obtain information or a confession from affected person or a third person;

(2) To punish him for an act that he or a third person has committed or is suspected of having committed;

(3) To intimidate or coerce him or a third person;

(4) A purpose similar to the those provided in paras. (1-3); or

(4) For any reason based on discrimination of any kind

This shall not include punishments according to the court’s judgment or as required by applicable laws and international legal obligations and standards observed by Thailand.

“Other cruel, inhuman or degrading treatment or punishment” shall include acts that inflict mental or physical pain or suffering, or violating human dignity of another person. This shall not include punishments according to the court’s judgment or as required by applicable laws and international legal obligations and standards observed by Thailand.

“Detention” means the arrest, confinement, abduction, taking into custody, restraint, imprisonment, holding a person for a questioning or interview following a summons, or any other act that deprives a person of his/her physical liberty.

“Enforced disappearance” means an act committed by a public official to detain a person, followed by a refusal of committing such act or concealment of the fate or whereabouts of a person by such public official or other public official.

“Public official” means a public official under the Act Supplementing the Constitution Relating to the Prevention and Suppression of Corruption, B.E. 2561 (A.D. 2018), and shall include a person exercising public authority or who was authorized, assigned, permitted, supported, or directly or indirectly allowed to exercise public authority to execute operations according to the law.

“Affected person” means a person who were victims of torture or cruel, inhuman or degrading treatment or punishment, or enforced disappearance, and shall include the husband, wife, domestic partner, parent, descendant, dependent, either de jure or de facto, of such affected person.

“Committee” means the Committee for Prevention and Suppression of Torture and Enforced Disappearance.

Person in charge

Section 5 The Minister of Justice shall be in charge of the execution of this Act and shall be empowered to issue regulations or notifications in order to carry out the provisions of this Act.

Such regulations or notifications after being published in the Government Gazette shall come into effect.

Chapter 1

General Provisions

**liberty in his or
her life and person
and human dignity**

Section 6 All persons without exception shall in all circumstances enjoy the rights to life, liberty, dignity and bodily and mental integrity, and in particular freedom from . torture, other cruel, inhuman or degrading treatment or punishment, and enforced disappearance.

Right of affected

person to justice

In case of the act affecting the rights of a person under the first paragraph, an affected person shall be entitled to file a complaint, have access to justice, and receive protection and support from the State. The affected person is entitled to compensation and effective remedy, which shall include prevention of repeated violations.

Court procedure

The affected person, public prosecutor, or another person acting in the affected person's interest shall have the right to seek a Court order to stop or withdraw such act affecting the rights of a person under the first paragraph immediately as well as to determine proper measures or remedy for the accrued damage.

State's duty to protect the right and liberty in life and body

Section 7 The State shall have a duty to protect the right rights to life, liberty, dignity and bodily and mental integrity, and in particular freedom from torture, other cruel, inhuman or degrading treatment or punishment, or and enforced disappearance of every person without discrimination¹ and implement effective measures to prevent torture, other cruel, inhuman or degrading treatment or punishment, and enforced disappearance.

State's duty to protect and support the affected person's justice

In case of any complaint regarding an act affecting the rights of a person under the first paragraph, it shall be the State's duty to act promptly to protect the affected person's wellbeing and safety and to support and assist the affected person effectively, including provision of , ensuring prompt, impartial, independent and effective investigation of the complaint in order to bring the perpetrator to justice., Where an act of torture, cruel, inhuman or degrading treatment or punishment or enforced disappearance is found to have taken place, the authorities must ensure adequate reparations, in accordance with Section 6.

Chapter 2

Suppression of Torture and Enforced Disappearance

¹ Whether on the basis of differences in national origin, race, ethnicity, language, sex, gender, sexual orientation, age, physical disabilities or health, personal status, economic or social position, occupation, work, education and training, religion or belief, political belief or opinion, or any other status.

Subchapter 1

General Provisions

**Offense of
enforced
disappearance**

Section 8

1. An official or a person acting with the authorization, support or acquiescence of an official who

(a) Arrested, detained or abducted one or more persons;
or

(b) Refused to acknowledge the arrest, detention or abduction, or to give information on the fate or whereabouts of such person or persons.

2. Provided that:

(a) Such arrest, detention or abduction was followed or accompanied by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons; or

(b) Such refusal was preceded or accompanied by that deprivation of freedom.

3. And the perpetrator was aware that:

(a) Such arrest, detention or abduction would be followed in the ordinary course of events by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons; or

(b) Such refusal was preceded or accompanied by that deprivation of freedom.

Such a person has committed an act of enforced disappearance

Offense of torture

Section 9 A person who is a public official and has intentionally inflicted severe pain or suffering, whether physical or mental, for such purpose as:

(1) To obtain information or a confession from affected person or a third person;

(2) To punish the affected person for the act that such person or the third party has committed or is suspected of having committed;

(3) To threaten or coerce affected person or a third person; or

(4) For any reason based on discrimination of any kind,

Such person commits an act of torture.

**Offense of cruel,
inhuman or
degrading
treatment or
punishment**

Section 10 A person who is a public official by or any other person acting at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity and commits any act inflicting physical or mental pain or suffering to or violating human dignity of another person, such person commits an offense of cruel, inhuman or degrading treatment or punishment.

**Rationale for
heavier
punishment**

Section 11 If an offense under Section 8, Section 9 and Section 10 is committed against a person under the age of 18, a pregnant woman, a person with physical or mental disabilities, or a vulnerable person due to old age or illness, the offender shall be punished to heavier punishment than that as indicated for such offense by half.

**A person involved
shall be punished
as a principal.**

Section 12 Whoever conspires with, employs or supports another person to commit the offenses under Section 8, Section 9 or Section 10 shall be liable to the same punishment as the principals, as indicated for such offenses.

**Supervisor's
liabilities**

Section 13 A supervisor who knows, or consciously disregarded information which clearly indicated, that a person under his or her command or responsibility is about to or has committed an offense under Section 8, Section 9 or Section 10, but fails to take necessary or reasonable measures within his or her power to prevent or suspend the offense, or not undertake or forward case for investigation and prosecution in accordance with law, shall be liable to half of the penalty as indicated for such offense.

The supervisor official under the first paragraph shall be responsible for and have the authority to control activities involving detention of a person.

No order or instruction may be invoked to justify an offense under Section 8, Section 9 or Section 10.

**Rationale for
deducting
punishment due to
cooperation**

Section 14 If offender under this Act assists in discovering a victim of enforced disappearance without the victim being severely injured, traumatized or dying, and provides important information useful for the prosecution, such perpetrator shall be liable to punishment less than that prescribed by the law, but not less than half of the established punishment.

**Principle of
universal
jurisdiction**

Section 15 Whoever commits an offense of torture or an offense of enforced disappearance under this Act outside the Kingdom shall be punished in the Kingdom as provided herein. In this regard, the provisions of Section 10 of the Criminal Code shall apply *mutatis mutandis*.

**Not regarded as a
political offence
under extradition
law**

Section 16 An offense of torture, an offense of other cruel, inhuman or degrading treatment or punishment, and an offense of enforced disappearance under this Act shall not be regarded as a political offense under the law on extradition and the law on international cooperation in criminal matters.

**Emergency
circumstance**

Section 17 No emergency, war, internal instability, or any other exceptional circumstances may be invoked as a justification of any offense under this Act.

**Principle of non-
refoulement**

Section 18 No government organizations or public officials shall extradite a person to another country where there are substantial grounds for believing that he or she would be in danger of being subjected to torture, other acts of cruel, inhuman or degrading treatment or punishment, or enforced disappearance.

Subchapter 2

Criminal Procedures

**Affected person in
the Criminal
Procedure**

Section 19 In the offenses under this Act, affected persons shall be regarded as an injured person under the Criminal Procedure Code.

**Continuous
offense**

Section 20 The offense of enforced disappearance under this Act shall be a continuous offense until fate and whereabouts of the detainee are disclosed or the person detained is released. The period of prescription shall not commence until the victim of enforced disappearance is found. An investigation shall be carried out until the victim of enforced disappearance is found and the relevant information is conveyed to his or her loved ones.

Prescription

Section 21 The offenses of torture and enforced disappearance under this Act shall have a legally-determined period or prescription of fifty years.

An offense of torture or enforced disappearance under this Act shall have no prescription period if it is committed as a part of an act of a widespread and systematic nature.

**Special cases
which the public
prosecutors are in
charge of the files**

Section 22 Offenses under this Act shall be special cases under the law on investigation of special cases and the public prosecutors shall be in charge of the files.

In cases where a suspect under this Act is a public official of any organization, public officials of such organization shall be prohibited from being inquiry officers hereunder. In this regard, the provisions of Chapter 3 of the Special Case Investigation Act shall apply *mutatis mutandis*.

Legal proceedings under this Act are not within the scope of power of the National Anti-Corruption Commission or the Public Sector Anti-Corruption Commission and the provisions of Section 21/1 of the Special Case Investigation Act shall not apply to the offenses under this Act.

Prosecution and

Section 23 When a public prosecutor prosecuting the case under Section 22 deems that an investigation has been completed, he/she shall submit an opinion that a prosecution or non-prosecution order should be made.

submitting opinion

Where the public prosecutor issues a non-prosecution order, the dissenting opinion under Section 145 of the Criminal Procedure Code shall be made by the Attorney General or his/her delegate.

**Rights of the
affected person**

Section 24 An agency having the power to investigate an offense under this Act shall notify the affected person of the progress of such offense in a continuous manner. The Committee, subcommittee or official assigned by the Committee to monitor the progress of the case and implement proper measures for protection of the affected person's wellbeing and safety, to compensate for and remedy physical and mental damages, to provide legal advice, and to provide support for the prosecution with participation of the affected person.

**Claiming
compensation**

Section 25 In a case where the public prosecutor brings criminal charges against a suspect, the public prosecutor shall apply by motion to the court trying the criminal case to ask the court to force the defendant, if convicted, to pay compensation to affected persons .

In this regard, the Committee, or subcommittee or official assigned by the Committee shall have the power, resources and duty to provide legal assistance and relevant information to enable the court to determine proper measures for the benefits of protection and rehabilitation of the affected person, which shall include medical treatment and physical and mental rehabilitation.

Section 26 Cases under this Act shall be tried by the court of justice and the procedures under the Corruption and Misconduct Procedures Act shall apply to such cases mutatis mutandis.

**Jurisdiction of the
court of justice**

Chapter 3

Prevention of Torture and Enforced Disappearance

Section 27 A public official in charge of detaining a person is obliged to record the information of the detainee under Section 28 and such detainee shall have and be informed the following rights:

Right of detainee

(1) To notify the detainee and his/her relative or other person of his/her choice of the date, time and place of detention, reason for issuing a

detention order, and information or details of the person exercising the detention authority;

(2) To provide his/her relative or other person of his/her choice the information and detail of transportation and receiving place in case of change of the place of detention;

(3) To immediately provide to his/her relative or other person of his/her choice basic information on the detainee's physical and mental conditions and detail of first aids and a receiving medical facility in the case where the detainee is sick or injured; [here it switches from the official's duties to the detainee's rights]

(4) To promptly, and thereafter frequently, receive a visit from and contact with a relative or other person of the detainee's choice;

(5) To meet with and consult a lawyer of the detainee's choice;

(6) To have a lawyer of his/her choice be present during all in interrogation, interviews or questioning. Before each session of interrogation, interview or questioning, all persons participating must be identified and there shall be visual and audio recordings for each interrogation, which shall be made available to the detained and his/her lawyer can be broadcasted on a continuous basis;

(7) To receive medical examination and treatment quickly when being injured or sick;

(8) In case of death of a detainee, or if the detainees was so injured that he/she is unable to act by him/herself, an affected person shall have the right to participate in an investigation to determine the cause of death or injury of the detainee.

A relevant public official is obliged to notify the detainee on the first occasion of his/her rights under the first paragraph, and facilitate the detainees in their prompt and safe access to the above noted rights.

**Preparation of a
record of the
detainee's
information**

Section 28 In detaining a person, a public official shall record, at a minimum, the following information of the detainee:

(1) First name, last name, photograph, appearance, and other identification data and physical condition of the detainee;

(2) Date, time and location of detention and information on the public official in charge of detaining. In case of change of such location, the destination where the detainee is received and the public official responsible for such change of the place of detention shall be identified;

(3) Detention order and the reason for issuance of such order;

(4) Public official issuing the detention order;

(5) The date, time and place of release, person responsible for the release, and relatives or persons receiving the detainee or witnesses of the release;

(6) Physical conditions of the detainee, both before detention and release. In case of death of the detainee, information on coordination with relevant authorities shall be identified;

(7) Contact information of a relative or other person that the detainee chooses and lawyer (if any);

(8) Information of action to ensure the detainee's rights under Section 19; and

(9) Other information determined by the Committee to prevent torture, other cruel, inhuman or degrading treatment or punishment, and enforced disappearance.

Before a release of the detainee under (5), a person responsible for detaining under the first paragraph shall notify the detainee's relative of such release and prepare a record on who takes the detainee. If the relative cannot be reached or nobody comes to pick up the detainee, methods used to contact the relative shall be recorded and the person responsible for the release shall have a witness of the release and record the name and address of such witness.

Right to request a public official to disclose information on the detention

Section 29 In the absence of the detainee or if s/he cannot be reached, a relative or another person acting in the detainee's interest, a Committee or a Subcommittee, or a public official assigned by the Committee shall have the right to request a public official to disclose information on the detainee as provided in Section 28.

Request for the court's disclosure

If the public official under the first paragraph refuses to disclose

**of information on
the detention**

information as required by section 28 on the detainee, relative or another person acting in the detainee's interest, the Committee, a subcommittee or an official assigned by the Committee shall have the right to file an application with a local criminal court having the power to try criminal cases to issue an order to disclose such information.

The court has the power to issue an order requiring the public official under the first paragraph to disclose information prescribed in Section 28 to relative or any other person acting in the detainee's interest, the Committee, or a subcommittee or official assigned by the Committee. An appeal against such court order may be filed with the court of appeal and order of the court of appeal shall be final.

**Non-disclosure
order**

Section 30 A non-disclosure order can be made only in the case where the court summons the detainee to show up before the court for questioning and there is guarantee that the detainee will not suffer torture, other cruel, inhuman or degrading treatment or punishment, or enforced disappearance and that such disclosure will endanger the detainee, violate his/her privacy, or interfere with an investigation of a criminal case.

**Court's
examination of
lawfulness of
detention (1)**

Section 31 When there is a claim that a person is illegally detained or there is a complaint regarding torture, other cruel, inhuman or degrading treatment or punishment, or enforced disappearance, the following persons shall have the right to file a motion with a local criminal court or court of justice having the power to try criminal cases to issue an order to end such circumstance immediately:

- (1) An affected person or his/her husband, wife, or relative
- (2) A public prosecutor
- (3) An inquiry officer or special case investigator
- (4) The Committee or a subcommittee or official assigned by the Committee
- (5) Any person acting in the detainee's interest

For the purpose of this Act, the person having the right to file a motion under the first paragraph shall be entitled to protection.

Court's

Section 32 Upon receiving a motion under Section 31 or when the

**examination of
lawfulness of
detention (2)**

court has other reasons to believe that there is torture or other cruel, inhuman, or degrading treatment or punishment, the court may immediately conduct an ex parte investigation. If there is a *prima facie* case, the court has the power to order the public official to bring the detainee or the affected person to the court immediately and if the detention is made against the law or there is torture, other cruel, inhuman or degrading treatment or punishment, or enforced disappearance during such detention, the court shall issue, as appropriate, an order as follows:

- (1) To release the detainee immediately;
- (2) To end the torture, or other cruel, inhuman or degrading treatment or punishment;
- (3) To change the place of detention;
- (4) To have the affected person meet his/her relatives, lawyer, or other persons of his/her choice in person;
- (5) To require provision of medical treatment, including physical and mental rehabilitation;
- (6) To require a disclosure of relevant documents, records or other information;
- (7) To determine other measures to end the action or provide initial remedies for the affected person.

The Committee or a subcommittee or official assigned by the Committee shall have the power and duty to submit a request to the court asking for establishment of proper measures for the purposes of protection and initial rehabilitation to the affected person, including medical treatment and physical and mental rehabilitation.

An appeal against the court order under this Section may be filed with the court of appeal and order of the court of appeal shall be final.

**Death of the
detainee**

Section 33 In the case of death of a detainee, the public official in charge of the detention shall promptly prepare an autopsy report under the Criminal Procedure Code on Autopsy and proceed as follows:

- (1) To preserve the scene of incident to prevent unauthorized persons from tampering with evidence and coordinate with those organizations responsible for examination of evidence to collect evidence at the scene;

(2) To contact the deceased's family members, lawyer or relatives to involve them in finding facts regarding the death; and

(3) To work with the Committee or the Office in order to take part in monitoring and examination of information and facts regarding torture in detention.

**Non-admissibility
of evidence
derived from
torture**

Section 34 Where it is found by the court that any statement was obtained as a result torture, other cruel, inhuman and degrading treatment or punishment, and enforced disappearance, such evidence shall be inadmissible, except against a person accused of any of these acts as evidence that the statement was made. .

**Protection of
person exercising
the right to file
complaints in good
faith**

Section 35 A person exercising his/her right to file a criminal report or submit a complaint to the Committee, subcommittee, or public agency for the benefit of prevention and suppression of torture, other cruel, in human or degrading treatment or punishment, and enforced disappearance shall enjoy protection, including against criminal, civil or administrative prosecution.

Chapter 4

**Committee on Prevention and Suppression of Torture, Other Ill-treatment
and
Enforced Disappearance**

**Composition of a
committee**

Section 36 There shall be a committee called the "Committee on Prevention and Suppression of Torture and Enforced Disappearance", consisting of:

(1) The Minister of Justice as Chairperson;

(2) The Permanent Secretary for Justice as Vice Chairperson;

(3) Ex officio members, such as the Permanent Secretary for Defense, Permanent Secretary for Foreign Affairs, Permanent Secretary for Social Development and Human Security, Permanent Secretary for Interior, Permanent

Secretary for Public Health, Director General of Department of Special Investigation, Commissioner General of the Royal Thai Police, Secretary-General of Office of the Judiciary, Attorney General, and President of the Lawyers Council;

(4) Two representatives of victims of torture, other cruel, inhuman or degrading treatment or punishment, and enforced disappearance, elected among themselves;

(5) Three representatives of civil society organizations that do not seek profit and carry out activities to protect the rights of affected persons, elected among themselves;

(6) Three experts appointed by the Cabinet, one from each of the three fields, including forensic science, forensic medicine, and psychology, as members.

Director-General of the Rights and Liberties Protection Department shall be a member and secretary and appoint not more than two civil servants of Rights and Liberties Protection Department to serve as assistant secretaries.

The rules and procedures for the appointment of members under (4) and (5) shall be as prescribed by the Director General, Rights and Liberties Protection Department.

Qualifications and prohibited characteristics of members

Section 37 Members under Section 36 (4), (5) and (6) must possess the qualifications and must not be under the prohibitions, as follows:

(1) Being of Thai nationality;

(2) Not being a bankrupt or having been a dishonest bankrupt;

(3) Not being an incompetent person or a quasi-incompetent person;

(4) Not being a political office holder, a member of a local assembly, a local administrator, an executive member or a holder of any position responsible for the administration of a political party;

(5) Not being subject to the order for suspension from official duties or the order for temporary dismissal from official posts;

(6) Never having been expelled, dismissed or removed from the

official service, a State agency or a State enterprise on the ground of disciplinary offense;

(7) Never having been imprisoned by a final judgment to imprisonment, including the final judgment to imprisonment but on parole or awaiting penalties, except for an offense committed through negligence, a defamation offense, or a petty offense;

(8) Having been ordered by a judgment or an order of the Court that his or her assets shall dissolve on the State on the ground of unusual wealthiness on an unusual increase of his or her asset;

(9) Never having been examined and found by the National Human Rights Commission to have committed a violation of human rights.

Term of office

Section 38 Committee members under Section 36 (4), (5) and (6) shall hold office for a term of four years.

At the expiration of the term under the first paragraph, a retiring member shall be eligible for re-appointment, but he/she may not hold office for more than two consecutive terms.

The retiring member shall remain in office in the interest of the continuance of work until the newly appointed member takes office, but this shall not exceed 180 days from the date of retirement from office.

Termination of member

Section 39 In addition to the retirement by rotation, the members under Section 36 (4), (5) and (6) shall be vacated upon:

- (1) Death;
- (2) Resignation;
- (3) Being disqualified or being under any of the prohibitions under Section 30;
- (4) Being removed by a vote of not less than two thirds of the Committee members on the ground of misbehavior, neglect of duties or dishonest performance, or lack of competence.

Vacancy

Section 40 If an office of the members under Section 36 (4), (5) and (6) is vacant before the expiration of term, a new member shall be appointed within sixty days, unless the remaining tenure of the member is less than ninety days.

A member who has been appointed to fill the vacancy shall retain his/her office only for the remaining tenure of his/her predecessor.

During the time when a new member has not been appointed to replace the member who vacated the office, the remaining members shall continue to perform their duties.

**Meeting of the
Committee**

Section 41 The Committee shall meet at least once a month.

At a meeting of the Committee, not less than one-half of the total number of members must be present to form a quorum.

If the Chairman is absent or unable to perform his duties at a meeting of the Committee, the Vice-Chairman shall preside over the meeting. If the Chairman and the Vice-Chairman are absent or unable to perform their duties, the meeting shall then elect one of the members present at the meeting to preside over the meeting.

In performing the duties, if the Chairperson or any member has any direct or indirect interest in the matters to be considered by the Committee, the Chairperson or such member shall notify the meeting and the meeting shall consider if such member should remain in the meeting and be able to vote on the given matter or not. This shall be in full compliance with rules set forth by the Committee.

The decision of the meeting shall be made by a majority of votes. A member shall have one vote. In case of a tie, the Chairman of the meeting shall have a casting vote.

**Committee's
powers and duties**

Section 42 The Committee shall have the powers and duties as follows:

(1) To propose to the Cabinet the opinions on amendment of laws, rules, regulations or other necessary measures under this Act;

(2) To formulate policies, plans, and measures to prevent and suppress torture, cruel, inhuman or degrading treatment or punishment, and enforced disappearance;

(3) To formulate policies and measures to rehabilitate and remedy a person suffering physical and mental damage to cover all kinds of damage suffered, including, where possible, restoration to original condition, provision of

sufficient compensation, and physical and mental treatment and rehabilitation;

(4) To set forth rules and procedures for helping and remedying an affected person, both financially and mentally, to include long-term medical rehabilitation with approval of the Ministry of Finance;

(5) To establish measures to prevent concealment of detention of a person;

(6) To monitor and investigate complaints regarding torture, other cruel, inhuman or degrading treatment or punishment, or enforced disappearance, to support and assist an affected person by providing him/her with counseling services, legal advices, lawyer, medical examination for the benefit of prosecution, follow-up of progress of the case, physical and mental rehabilitation, and prevention of recurrence of a violation;

(7) To monitor, direct, and coordinate with relevant agencies in order to facilitate fast and fair investigation as well as to apply for change of inquiry officer in charge for the benefit of justice;

(8) To ask State agencies or other public officials to help, support or participate in performance of duties as appropriate for the benefit of implementation of this Act;

(9) To visit agencies or locations relating to detention without a prior notice, to receive anonymous complaints, and to provide responsible agencies with useful advices for the benefit of implementation of this Act;

(10) To prepare a report on situations of torture, cruel, inhuman or degrading treatment or punishment, and enforced disappearance, and recommended solutions to submit to the Cabinet and disseminate to the general public on an annual basis;

(11) To appoint advisors, subcommittees or officials to carry out works assigned by the Committee;

(12) To establish regulations or announcements on expenses incurred in performance the duties and other expenses with approval of the Ministry of Finance;

(13) To lay down other regulations for the implementation of this

Act;

(14) to carry out other duties as prescribed by laws.

**Office's powers
and duties**

Section 43 The Rights and Liberties Protection Department shall serve as the Office of Secretary of the Committee and have the following powers and duties:

(1) To work and collaborate with government organizations, State agencies and related private sectors in searching for and helping an affected person;

(2) To monitor and investigate complaints regarding torture, other cruel, inhuman or degrading treatment or punishment, or enforced disappearance, to support and assist an affected person by providing him/her with counseling services, legal advices, lawyer, medical examination for the benefit of prosecution, follow-up of progress of the case, physical and mental rehabilitation, and prevention of recurrence of a violation;

(3) To encourage government organizations, State agencies, and relevant private sectors to participate in the prevention and suppression of torture, cruel, inhuman or degrading treatment or punishment, and enforced disappearance;

(4) To conduct research studies and disseminate knowledge on torture, cruel, inhuman or degrading treatment or punishment, and enforced disappearance and to educate and train the general public and public officials;

(5) To collect case data and statistics, prepare an annual report to submit to the Cabinet, and provide recommendations for prevention and suppression of torture and enforced disappearance;

(6) To carry out other duties as assigned by the Committee or subcommittees.

Chapter 5

Penalties

Offense of

Section 44 Whoever commits an offense of enforced

enforced disappearance disappearance shall be liable to imprisonment from five to fifteen years and a fine from One Hundred Thousand to Three Hundred Thousand Baht.

If the offense under the first paragraph has resulted in the victim's serious injuries or trauma, the offender shall be liable to imprisonment from ten to twenty-five years and a fine from Two Hundred Thousand to Five Hundred Thousand Baht.

Offense of torture If the offense under the first paragraph has resulted in the victim's death, the offender shall be liable to imprisonment for life.
Section 45 Whoever commits an offense of torture shall be liable to imprisonment from five to fifteen years and a fine from One Hundred Thousand to Three Hundred Thousand Baht.

If the offense under the first paragraph has resulted in the victim's serious injuries, the offender shall be liable to imprisonment from ten to twenty-five years and a fine from Two Hundred Thousand to Five Hundred Thousand Baht.

If the offense under the first paragraph has resulted in the victim's death, the offender shall be liable to imprisonment for life.

Offense of cruel, inhuman or degrading treatment or punishment **Section 46** Whoever commits an offense of cruel, inhuman or degrading treatment or punishment shall be liable to imprisonment for a term of not exceeding five years and to a fine not exceeding One Hundred Thousand Baht.

Intention to obstruct the protection measure by not informing detainee's rights or not recording information on the detention **Section 47** Any public official who fails to inform the detainee under Section 27 of his/her rights, or fail to record information concerning the detention under Section 28, with an objective to obstruct the protection of rights of the detainee shall be liable to imprisonment for a term of not exceeding one year or a fine not exceeding 20,000 Baht, or both.

Transitory Provisions

**Cases of the
offense of enforced
disappearance
that occurred
before an
enactment of this
Act**

Section 48 Regarding the offense of enforced disappearance committed before this Act is in effect, inquiry officers shall continue the investigation and inquiry until the fate and whereabouts of the victim of enforced disappearance are established and the relevant information provided to his/her loved ones, and prosecute any offenders. [paraphrasing]