

# Criminalisation of torture and enforced disappearance in Thailand: Progress on draft legislation

**Torture Journal Editorial Team\* on behalf of  
Cross Cultural Foundation (CrCF), Thailand**

In 2007, Thailand ratified the UN Convention Against Torture and in 2012, signed the International Convention for the Protection of All Persons from Enforced Disappearance. 13 years on however, the country has yet to criminalise torture and enforced disappearance under domestic legislation.

Following a recommendation from the UN Committee Against Torture in 2014, the ‘Suppression and Prevention of Torture and Enforced Disappearance’ Bill was drafted. At the time of writing, the Bill remains entangled in a legislative process fraught with political obstacles and delays.

The failure to criminalise torture and enforced disappearances leads to a lack of prompt, effective, and independent investigations, and forges a climate of impunity. The UN Working Group on Enforced or Involuntary Disappearances has recorded 79 cases of enforced disappearance that are pending investigation in Thailand. No perpetrator in any of these cases has successfully been brought to justice.

The drafting and passing of legislation is thereby critical to ensuring effective access to justice and legal assistance as a means to investigating and ultimately ceasing violations.

An overview of the timeline and details of the draft Bill are as follows:

- In 2012, Thailand signed, but has yet to ratify, the International Convention for the Protection of All Persons from Enforced Disappearance.
- In 2014, the Suppression and Prevention of Torture and Enforced Disappearance Bill was drafted following the recommendation of the UN Committee Against Torture.
- In 2016, the draft Bill was submitted before the Council of State and the National Legislative Assembly for review and final approval.
- In October 2018, the draft law was endorsed by the Council of State, the Cabinet, and the Coordinating Committee of the National Legislative Assembly (NLA).
- In December 2018, many civil society organizations (CSOs), namely the Cross-Cultural Foundation (CrCF), submitted a letter to the NLA, expressing concerns regarding the lack of CSO participation in the process and requesting to observe the ad hoc committee sessions, but were denied permission.
- In March 2019, the NLA decided to take the discussion and consideration of the draft Bill out of their agenda in the second reading due to strong opposition from high ranking security officials.
- In May 2019, a new parliament was formed following a general election. During this time, CrCF and other human rights organ-

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isations developed the CSO version of the draft law. This version provides that:

- a. Intentional infliction of severe pain or suffering for any reason based on discrimination constitutes torture.
  - b. The act of torture may not be justified in any circumstances, even in time of public emergencies.
  - c. Superiors of the offender must be held accountable for an act of torture and enforced disappearance committed by their subordinates.
  - d. All persons deprived of liberty must enjoy fundamental safeguards that guarantee their freedom from torture, cruel, inhumane and degrading treatments or punishments, and enforced disappearance.
  - e. Allegations must be reviewed by civilian courts which shall be granted powers to intervene and issue injunctions that offer immediate remedies for the victims.
- In early 2020, the Draft Act on Prevention and Suppression of Torture and Enforced Disappearance was submitted to the Standing Committee on Legal Affairs, Justice, and Human Rights of the Thai Parliament.

Despite efforts to codify the crimes of torture and enforced disappearance under Thai law, the country's pledges to do so remain unfulfilled. Without this law, there is no foreseeable end to the rampant culture of impunity in Thailand. Victims of torture and enforced disappearance will continue remain in the shadows without access to protection from the state.