



THAILAND

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Joint submission prepared by the International Federation for Human Rights
(FIDH) and the Union for Civil Liberty (UCL)

Introduction

1. The International Federation for Human Rights (FIDH) is an international human rights NGO that unites 178 member organizations from 117 countries. Since its foundation in 1922, FIDH has been defending all civil, political, economic, social, and cultural rights set out in the Universal Declaration of Human Rights (UDHR).
2. The Union for Civil Liberty (UCL) is a Thai NGO founded in 1973 to promote human rights in Thailand. An important contributor to Thailand's 1997 Constitution, UCL is a respected advocate of human rights issues for the disadvantaged.
3. The FIDH-UCL joint Universal Periodic Review (UPR) submission focuses on developments related to the death penalty in Thailand since the country's first UPR in October 2011 and makes recommendations to Thailand's government to make progress towards the abolition of the death penalty. Information presented in this submission has been collected from government websites, official documents, verified media reports, and first-hand information.

No real progress towards abolition

4. Despite more than six years without executions, Thailand has failed to make real progress towards the abolition of the death penalty.¹
5. Thailand did not accept any of the 10 recommendations made by other states with regard to the death penalty. Of the 10 recommendations received, five called on Thailand to abolish or consider abolishing the death penalty, four called for a moratorium on the death penalty, and one called for the removal of non-violent

¹ Thailand has not executed anyone since 24 August 2009, when two men convicted of drug trafficking, Bundit Jaroenwanit and Jirawat Poompreuk, were put to death by lethal injection at Bang Khwang Prison, Nonthaburi Province.

offenses from the list of capital crimes. In addition, Thailand did not accept the six recommendations that called for the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP2), which aims at the abolition of the death penalty.

6. On 20 December 2012 and on 18 December 2014, Thailand abstained from voting on a moratorium on the use of the death penalty at the United Nations General Assembly (UNGA).
7. On a positive note, figures show a steady decline in the number of prisoners under death sentence. On 11 April 2011, there were 759 prisoners (676 men and 83 women) under death sentence. By 31 May 2015, the number had progressively decreased to 437 (387 men and 50 women). This 42% decrease is attributed to the number of commutations of death sentences under royal amnesties. From 2011 to 2015, there were several commutations of sentences on special occasions. For example, on 11 August 2012, a royal amnesty was announced declaring that all prisoners sentenced to death and whose cases had reached a final verdict would have their death sentences commuted to life imprisonment. As a result, at least 58 prisoners had their death sentence commuted to life in prison.
8. Despite a reduction of the number of prisoners facing capital punishment, courts across Thailand have continued to impose death sentences. Between January 2012 and December 2014, at least 211 people were sentenced to death. Although official figures are not publicly available, at least 40 death sentences were recorded in 2011, at least 106 in 2012, at least 50 in 2013, and at least 55 in 2014.

Legal framework: Number of capital crimes increases

9. Since Thailand's first UPR, there has been no effort to reduce the number of crimes subject to the death penalty.
10. The Criminal Code prescribes the death penalty under 55 different articles, for various criminal offenses, including: premeditated murder; rape resulting in death; kidnapping; terrorism; espionage; treason; economic crimes; and drug-related offenses.² Other laws that contain provisions for the death penalty include: the 1947 Firearms, Ammunition, Explosives, Fireworks, and the Equivalent of Firearms Act; the 1979 Narcotics Act; the 1999 Anti-Corruption Law; the 2008 Anti-Trafficking in Persons Act; and the 2015 Act Regarding Offenses Relating to Air Travel.
11. Under Article 246 of the Criminal Procedure Code, pregnant women are exempted from the death penalty and are allowed to care for their newborn child in a suitable place within the prison for up to one year after the birth. Article 18 of the Criminal Code prohibits the imposition of the death penalty on children under the age of 18.
12. Drug-related offenses represent a disproportionate share of the crimes for which a death sentence is imposed. Thirty-seven percent of the men and 80% of the women who were under death sentences as of 31 May 2015 had been found guilty of drug-related offenses. The existence of legislation that makes drug-related offenses punishable by death is inconsistent with Thailand's legal obligations under Article 6 of

² Among the 55 articles of the Criminal Code, the death penalty is prescribed for: assassinating or attempting to assassinate the King, the Queen, Heir-apparent, or the Regent (Articles 107, 109), committing an act of violence or attempting to commit an act of violence against the King and His liberty (Article 108), committing an act of violence or attempting to commit an act of violence against the Queen, Heir-apparent, or the Regent which could endanger his/her life (Article 110).

the International Covenant on Civil and Political Rights (ICCPR), which states that in countries that have not abolished the death penalty, death sentences “may be imposed only for the most serious crimes.” The United Nations Human Rights Committee has repeatedly stressed that capital punishment for drug-related offenses does not comply with Article 6 of the ICCPR.

13. Instead of reducing the number of offenses that are defined as capital crimes, lawmakers introduced (or proposed the introduction of) laws that expand the offenses that can be punished by death.
14. On 14 July 2014, it was reported that former Home Affairs Deputy Minister and Phum Jai Thai Party Member of Parliament (MP) Mr. Boonchong Wongtrasirat proposed the amendment of existing laws in order to make the buying and selling of votes an offence that is punishable by death.
15. On 3 December 2014, Constitutional Drafting Committee (CDC) spokesman Mr. Lertrat Rattanawanit said the CDC planned to retain the death penalty for crimes related to narcotics dealing, rape, and serial murder.
16. On 13 February 2015, the Act Regarding Offenses Relating to Air Travel, which was first proposed in September 2014, came into effect. The law prescribes the death penalty for those found guilty of acts involving lethal force, which cause the closure of an airport or damage airport facilities or aircraft.
17. On 26 March 2015, Thailand’s National Legislative Assembly (NLA) voted to amend the 2008 Anti-Trafficking in Persons Act to make human trafficking a capital offense if it resulted in the death of a trafficked victim.
18. On 9 July 2015, amendments to the 1999 Anti-Corruption Law came into effect. The amendments, approved by the NLA, extended capital punishment to foreigners working for foreign governments and international organizations convicted of bribery.

Lack of political will blocks progress towards abolition

19. Thailand has repeatedly stated its intention to consider abolishing capital punishment. In its reply to the report of the Working Group on the Thailand UPR in March 2012, Thailand stated it was beginning the “process of studying the possibility of abolishing the death penalty, in consultation with the public and relevant stakeholders,” but added that it needed to complete a public consultation process. As a result, Thailand stated it was “unable to accept recommendations to review or amend the law in regard to capital punishment, place a moratorium on, or abolish the death penalty.”
20. During a conference of several Southeast Asian governments on prospects for abolishing the death penalty, held in Bangkok on 22-23 October 2013, Thailand’s Ministry of Justice announced that the government would soon propose legislation to abolish the death penalty and was considering ratifying the ICCPR-OP2.
21. On 22 July 2014, in a letter to the UNGA President which contained Thailand’s human rights pledges and commitments as part of its candidature for a seat at the United Nations Human Rights Council for the 2015-2017 term, Thailand pledged to “study the possibility” of abolishing capital punishment.

22. Thailand's third National Human Rights Plan (2014-2018) also repeated the possibility of abolition included in the two previous human rights plans. In its summary, the third plan states that one of its aims is to "change capital punishment to life imprisonment through parliamentary deliberation in light of the continued effort to upgrade Thailand's internal human rights laws to be consistent with international standards."
23. In late December 2014, Deputy Permanent Secretary of the Ministry of Justice Mr. Chanchao Chaiyanukit reiterated that the goal of the third National Human Rights Plan was to abolish death penalty, provided the Ministry could "convince the public."
24. Many of the official statements have made the abolition of the death penalty contingent on the support of public opinion. Regrettably, successive governments have failed to provide the general public with relevant information to have an informed opinion on the issues related to the death penalty.
25. From January to March 2014, Mahidol University and the Ministry of Justice's Department of Rights and Liberties Protection conducted a survey of 1,073 people in five different regions of Thailand and in Bangkok on the death penalty. The poll found that 68.7% of respondents were in favor of the death penalty, while 22.1% were in favor of abolition, and 9.2% were unsure. In an online survey conducted by the same university in 2014, 88% of the 1,301 respondents said they were in favor of the death penalty, 9% were in favor of abolition, and 3% were unsure.
26. However, the study was conducted without providing respondents with sufficient analysis and unbiased information regarding key aspects of the application of the death penalty. For example, the survey listed a number of arguments in favor of the death penalty that would lead respondents to believe that capital punishment is an effective deterrent against crime and that abolition would lead to greater killing.
27. As a result of this failure to adequately inform the general public on issues surrounding the death penalty, Thai officials have conveniently claimed that the country is not ready for abolition because public opinion overwhelmingly supports capital punishment. This notion is reflected by the words of Thailand's Justice Minister Mr. Paiboon Koomchaya, who, on 14 July 2015, said that Thailand could not yet abolish capital punishment because it was "deeply-rooted in the mind and attitude of Thai people."
28. In addition, government officials and politicians have occasionally made public statements in support of the death penalty, particularly in reaction to the commission of heinous crimes. For example, following the rape and murder of a 13-year-old girl on a Bangkok-bound train on 6 July 2014, Udon Thani Governor Mr. Seni Chittakasem expressed support for the murderer to receive a death sentence. Democrat Party spokesperson Mr. Chavanond Intarakomalyasut declared that the culprit should be executed to set an example.

Recommendations to the government:

- Abolish the death penalty before the next UPR cycle.
- Immediately establish an official moratorium on executions.
- Vote in favor of the next UNGA resolution that calls for a moratorium on executions.
- Significantly reduce the number of criminal offenses that can be punished by death.
- Remove the provision of capital punishment for all drug-related offenses.
- Sign and ratify the Second Optional Protocol to the ICCPR before the next UPR cycle.
- Immediately commute all death sentences to prison terms.
- Abandon the plan to replace capital punishment with life imprisonment.