



**fidh**

# BEHIND THE WALLS

## A look at conditions in Thailand's prisons after the coup

Cover photo: A prison officer stands guard with a baton in the sleeping quarters of Bangkok's Klong Prem Prison on 9 August 2002. © Stephen Shaver / AFP

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# I. EXECUTIVE SUMMARY

Thailand's prison population has steadily increased over the years and the country has the dubious distinction of having the largest prison population and the highest incarceration rate among Association of Southeast Asian Nations (ASEAN) member states.

For more than a decade, United Nations (UN) human rights mechanisms have expressed concern over prison conditions in Thailand. Regrettably, successive Thai governments have failed to make any progress in the implementation of the UN's recommendations and to uphold their own commitments to improve prison conditions. In addition, since the 2014 military coup, Thailand's junta has enforced measures that have caused conditions in the prisons to deteriorate. The junta also increased the use of military facilities to detain civilians.

As documented in this report, Thailand's ongoing failure to enact a comprehensive prison reform has created conditions for human rights violations to be rife in its prison system in breach of the country's obligations under international instruments to which it is a state party.

The Thai Department of Corrections' motto, *'Caring Custody, Meaningful Rehabilitation, International Standard Achievement'*,<sup>1</sup> could not be further from the reality of the Thai prison system. Research conducted by FIDH and UCL on two large prisons in Bangkok suggests that Thailand's prison conditions fail to meet international standards and to create an environment conducive to the rehabilitation of prisoners.

Overcrowding remains the most pressing issue in Thai prisons. Thailand's average yearly prison population has steadily increased over the years and, aside from the periodic royal amnesties, no other effective and sustainable measures have been adopted to significantly reduce the population. Based on a standard to provide a surface area per prisoner of 2.25m<sup>2</sup>, available official statistics representing 74% of Thailand's prisons and 91% of its overall prison population show that these prisons are operating with a prison population of more than double the intended capacity – with an occupancy level of 224%.

Inadequate access to medical treatment, insufficient food and potable water, and poor sanitation facilities continue to plague the prisons examined in this report. It is likely that similar conditions exist in other prisons across Thailand. Medical care and special arrangements for pregnant women are particularly lacking. Prisoners are often subjected to exploitative labor practices characterized by harsh working conditions and insufficient remuneration. Punishment in prisons contravenes international standards and, in some cases, may amount to torture and ill-treatment. Prisoners' statements indicate that restraining devices, such as shackles, have been excessively used. Finally, inmates have reported unreasonable restrictions placed on visits and correspondence with family and friends. While procedures for making complaints exist, prisoners are afraid to lodge complaints out of fear of retaliation at the hands of prison officials.

The situation has not improved since the 22 May 2014 military coup. Under the National Council for Peace and Order (NCPO) access to prisons has become more difficult. In addition, based on interviews with former prisoners and families of current inmates, FIDH and UCL were able to document that prison authorities have enforced stricter prison regulations and further curtailed prisoners' rights. Of particular

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1. Department of Corrections, <http://www.correct.go.th/eng/index.html>

concern is the increased use of military bases to detain civilians, which do not afford detainees many of their basic rights. The use of the Nakhon Chaisri temporary detention facility inside the 11th Army Circle base in Bangkok illustrates this trend. Since the establishment of Nakhon Chaisri less than two years ago, there has been a lack of access for independent monitors, two custodial deaths, and allegations of torture have surfaced.

This report recommends numerous measures to improve detention conditions, including providing independent inspection bodies unfettered access to all prisons and allowing non-governmental organizations with a relevant mandate to conduct visits to places of detention, interview inmates, and assess conditions without undue hindrance.

# II. INTERNATIONAL AND DOMESTIC LEGAL FRAMEWORK

## International legal framework

The **Universal Declaration of Human Rights (UDHR)** outlines a number of key rights applicable to prisoners. They include: the right to life, liberty and security of person (Article 3), and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 5).

The **International Covenant on Civil and Political Rights (ICCPR)**, the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**, and the **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)**, all to which Thailand is a state party, provide protections relevant to the rights of prisoners.

Article 10 of the **ICCPR** specifically pertains to the protection of prisoners' rights. Article 10(1) stipulates: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." In addition, Article 7 protects against torture and cruel, inhuman or degrading treatment or punishment.

Article 11(1) of the **ICESCR** specifies that states party to the Covenant shall "recognize the right of everyone to an adequate standard of living [...], including adequate food, clothing and housing." Article 12(1) further provides for "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."

Article 2(1) of the **CAT** requires that each state party "take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction."<sup>2</sup> Article 11 stipulates that states party to the Convention shall systematically "review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment [...] with a view to preventing any cases of torture." Article 12 provides for investigations into allegations of torture, stating that states party to the Convention should ensure "competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed." Article 13 states that "any individual who alleges he has been subjected to torture [...] has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities."

In addition, Article 16(1) requires that states party to the Convention undertake to prevent "other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."

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2. Article 1(1) of the CAT defines 'torture' as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

The **United Nations (UN) Standard Minimum Rules for the Treatment of Prisoners (SMRs)**, also known as the Nelson Mandela Rules, initially approved in 1957, were subsequently revised and adopted by the UN General Assembly on 17 December 2015.<sup>3</sup> The rules are universally acknowledged as the minimum standard for the treatment of prisoners and provide guidelines for what are generally accepted as being good principles and practices in the treatment of prisoners and the management of institutions.

The **UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders**, also known as the Bangkok Rules, adopted by the UN General Assembly on 21 December 2010, are an additional set of rules that supplement the SMRs and focus on the specific needs of women prisoners.<sup>4</sup>

## Domestic legal framework

The penitentiary system relies heavily on ministerial regulations, orders, commands, and announcements to implement the provisions of the 1936 Penitentiary Act and its amendments.

Many of the ministerial regulations, orders, commands, and announcements issued by virtue of Article 58 of the 1936 Penitentiary Act contain provisions that violate both the Nelson Mandela Rules and the Bangkok Rules. While many ministerial regulations are no longer applied and some regulatory improvements have been adopted (for example, the 2005 regulation revoking flogging), a number of regulations still in effect are cause for concern. The ministerial regulation on instruments of restraint (1998) stipulates that shackles, handcuffs, leg-cuffs, and chains can be used as instruments of restraint, in violation of the SMRs.<sup>5</sup>

The amended Penitentiary Act, approved by a National Legislative Assembly (NLA) vote of 205-1 with two abstentions on 1 December 2016, sets out new rules on the administration of prisons.<sup>6</sup> On 18 February 2017, the amended Act was published in the Government Gazette.

During Thailand's second Universal Periodic Review (UPR) between May and September 2016, the government said that amendments to the 1936 Penitentiary Act had been made with the objective of reforming the penitentiary system to be "more consistent with international standards" and the country's "relevant obligations."<sup>7</sup> The government also said it had considered several alternatives to imprisonment to address the issue of overcrowding in detention centers.<sup>8</sup>

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3. The SMRs were initially adopted by the UN Congress on the Prevention of Crime and the Treatment of Offenders in 1955, and approved by the UN Economic and Social Council in 1957. The revised version of the SMRs was adopted under UN General Assembly Resolution A/RES/70/175.

4. The UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders were adopted under UN General Assembly Resolution A/RES/65/229.

5. Rule 47 of the UN Standard Minimum Rules for the Treatment of Prisoners states, "(1) The use of chains, irons or other instruments of restraint which are inherently degrading or painful shall be prohibited. (2) Other instruments of restraint shall only be used when authorized by law and in the following circumstances: (a) As a precaution against escape during a transfer, provided that they are removed when the prisoner appears before a judicial or administrative authority; (b) By order of the prison director, if other methods of control fail, in order to prevent a prisoner from injuring himself or herself or others or from damaging property; in such instances, the director shall immediately alert the physician or other qualified healthcare professionals and report to the higher administrative authority."

6. National Legislative Assembly, *Voting record of the National Legislative Assembly, Session 77/2016*, 1 December 2016, [http://library.senate.go.th/document/mVoteM/Ext32/32138\\_0001.PDF](http://library.senate.go.th/document/mVoteM/Ext32/32138_0001.PDF)

7. UN Human Rights Council, 33rd session, *Report of the Working Group on the Universal Periodic Review - Thailand - Addendum*, 7 September 2016, UN Doc. A/HRC/33/16/Add.1, Para. 9.

8. UN Human Rights Council, 33rd session, *Report of the Working Group on the Universal Periodic Review - Thailand*, 15 July 2016, UN Doc. A/HRC/33/16, Para. 67.

The amended Penitentiary Act contains a number of improvements compared to the 1936 Penitentiary Act, such as the inclusion of specific clauses on pregnant prisoners and women prisoners with children, healthcare, and the formation of a 20-member penitentiary affairs committee to set out guidelines and measures for the improvement of the administration of penitentiary affairs.

However, a number of articles in the new law are not in line with international standards:

Article 21 allows the use of instruments of restraint on prisoners when “restraint is deemed reasonable by the official in charge of the escort.” Such a broad criterion is susceptible to abuse by prison officials, and will allow the continued application of instruments of restraint on all male prisoners during transfer. The SMRs specify that instruments of restraint can only be used as a precaution against escape during a transfer, or in order to prevent a prisoner from injuring him/herself or from damaging property.<sup>9</sup>

Article 23 permits the use of firearms if a prisoner tries to escape and refuses to stop when ordered, or if three or more prisoners cause a disturbance or attempt to use force in opening or destroying prison gates, fences, walls, or other buildings, or violently cause an injury to another person. The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials state that in their relations with persons in custody or detention, “law enforcement officials [...] shall not use firearms, except in self-defense or in the defense of others against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention presenting the danger.”<sup>10</sup>

Article 30 exempts prison officials (and other officials appointed under Articles 17 and 28) from civil and criminal liability in certain circumstances. This is counter to Article 2(3) of the ICCPR, which stipulates that each person whose rights and freedoms are violated “shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.”<sup>11</sup>

Article 33 allows the Department of Corrections to designate places other than prisons for the purpose of holding a person in custody. This provision raises concerns over the possibility of additional detention facilities set up at military bases around the country.

Article 69 allows a number of punishments, including solitary confinement for a period not exceeding one month. Such a punishment is against the SMRs, which prohibits the practice of prolonged solitary confinement (i.e. for a period in excess of 15 consecutive days).<sup>12</sup>

Article 76 of the amended Penitentiary Act specifies that unless incompatible or inconsistent with the amended Act, the ministerial regulations, orders, commands, and announcements, issued under the 1936 Penitentiary Act, remain effective until new ones are approved.

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9. UN Standard Minimum Rules for the Treatment of Prisoners Rule, 47(2).

10. Article 16 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

11. Article 2(3) of the ICCPR states, “Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.”

12. UN Standard Minimum Rules for the Treatment of Prisoners, Rule 43(1), Rule 44.



# III. UN HUMAN RIGHTS BODIES CENSURE THAILAND OVER PRISON CONDITIONS

The United Nations (UN) **Human Rights Committee (CCPR)**, the UN **Committee against Torture (CAT)**, and the UN **Committee on Economic, Social and Cultural Rights (CESCR)** have all expressed ongoing concern over the rights of prisoners and prison conditions in Thailand.

In its July 2005 concluding observations, the **CCPR** expressed concern about the overcrowding and general conditions of places of detention. The CCPR recommended that Thailand bring prison conditions in line with the UN Standard Minimum Rules for the Treatment of Prisoners (SMRs) and guarantee the right of detainees to be treated humanely, particularly with regard to hygienic conditions, access to healthcare, and adequate food. The UN body also deplored the continued use of shackling and solitary confinement.<sup>13</sup>

In its June 2014 concluding observations, the **CAT** expressed a number of concerns related to conditions of detention, including: the continued allegations of torture;<sup>14</sup> the high level of overcrowding and harsh conditions in detention facilities;<sup>15</sup> the use of shackling and solitary confinement;<sup>16</sup> the lack of systematic, effective and independent monitoring and inspection of all places of detention;<sup>17</sup> the fact that persons deprived of their liberty did not raise complaints with the National Human Rights Commission of Thailand (NHRCT) during the body's visits to places of detention, reportedly out of fear of retaliation by prison officials;<sup>18</sup> and the lack of disaggregated data on deaths in custody.<sup>19</sup>

In its June 2015 concluding observations, the **CESCR** expressed concern over the “substandard living conditions and excessive overcrowding” in detention centers. The CESCR recommended Thailand increase its efforts to remedy overcrowding and ensure adequate living conditions in detention centers, including adequate access to healthcare, and to combat malnutrition.<sup>20</sup>

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13. UN Human Rights Committee, 84th session, *Concluding observations of the Human Rights Committee, Thailand*, 8 July 2005, UN Doc. CCPR/CO/84/THA, Para. 16.

14. UN Committee against Torture, 52nd session, *Concluding observations on the initial report of Thailand*, 20 June 2014, UN Doc. CAT/C/THA/CO/1, Para. 10.

15. UN Committee against Torture, 52nd session, *Concluding observations on the initial report of Thailand*, 20 June 2014, UN Doc. CAT/C/THA/CO/1, Para. 22.

16. UN Committee against Torture, 52nd session, *Concluding observations on the initial report of Thailand*, 20 June 2014, UN Doc. CAT/C/THA/CO/1, Para. 23.

17. UN Committee against Torture, 52nd session, *Concluding observations on the initial report of Thailand*, 20 June 2014, UN Doc. CAT/C/THA/CO/1, Para. 24.

18. UN Committee against Torture, 52nd session, *Concluding observations on the initial report of Thailand*, 20 June 2014, UN Doc. CAT/C/THA/CO/1, Para. 25.

19. UN Committee against Torture, 52nd session, *Concluding observations on the initial report of Thailand*, 20 June 2014, UN Doc. CAT/C/THA/CO/1, Para. 28.

20. UN Committee on Economic, Social and Cultural Rights, 55th session, *Concluding observations on the combined initial and second periodic reports of Thailand*, 19 June 2015, UN Doc. E/C.12/THA/CO/1-2, Para. 28.

# IV. THAILAND'S UNENVIABLE PRISON RECORD

Thailand has the highest prison population and incarceration rate among Association of Southeast Asian Nations (ASEAN) countries and the world's highest incarceration rate of women. Thailand's prisons are significantly beyond their capacity and, as a result of the country's harsh drug laws, the vast majority of inmates are incarcerated for drug-related offenses.

**Note on methodology:** This section uses total prison population figures from January 2017. However, due to the December 2016 amnesty, the population figures for January are slightly lower than what the average prison population would be over an entire year. Calculating averages for the years 2011 to 2017 was not possible due to incomplete Department of Corrections data.

## System overview

In January 2017, the Thai prison system comprised 199 prisons.<sup>21</sup> Of the 199 prisons, there are 33 central prisons;<sup>22</sup> 26 correctional institutions;<sup>23</sup> 30 remand prisons;<sup>24</sup> five detention centers; 48 provincial prisons;<sup>25</sup> 26 district prisons;<sup>26</sup> and 31 temporary prisons.<sup>27</sup> According to the Department of Corrections' figures for November 2016, the staff to prisoner ratio was 1:27.<sup>28</sup>

### Categories of prisoners, as of 1 January 2017

Categories	Male	Female	Total
1. Convicted prisoners	197,506	31,829	229,335
2. Remand prisoners	51,654	7,416	59,070
2.1 Court of Appeals, Supreme Court	23,226	3,183	26,409
2.2 Investigation - trial	8,557	1,562	10,119
2.3 Inquiry	19,871	2,671	22,542
3. Juveniles in detention	72	3	75
4. Sentenced to relegation <sup>29</sup>	8	3	11
5. Detained	1,099	85	1,184
<b>Total</b>	<b>250,339</b>	<b>39,336</b>	<b>289,675</b>

21. Based on the Department of Corrections' website, list of prison population by prison.

22. Central prisons: Generally used for sentenced prisoners and final sentenced prisoners.

23. Correctional institutions: Generally used for prisoners of the same category as those detained in a regional prison in localities where there are no regional prisons (regional prisons comprise provincial prisons and district prisons).

24. Remand prison: Generally used for prisoners of the same category as those detained in a regional prison in the localities where there are no regional prisons (regional prisons comprise provincial prisons and district prisons).

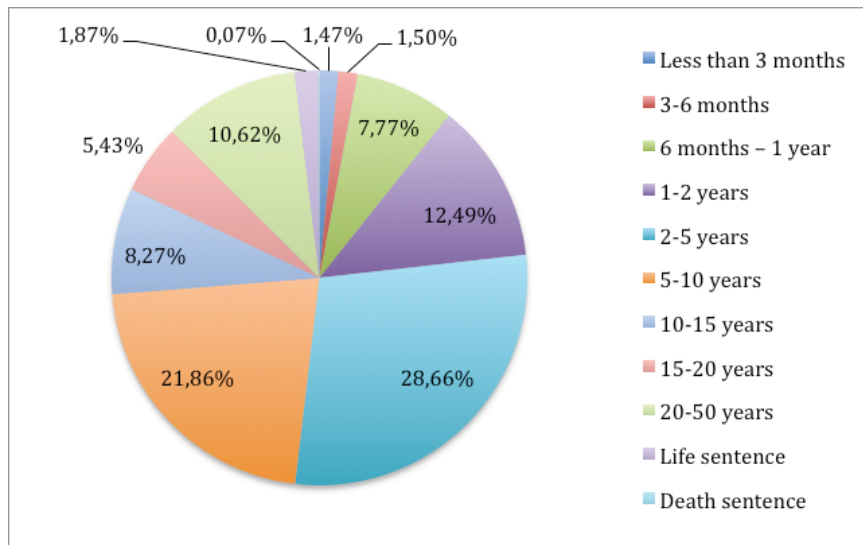
25. Provincial prisons: Generally used for entrusted prisoners, prisoners on remand, and final sentenced prisoners.

26. District prisons: Generally used for entrusted prisoners, prisoners on remand, and final sentenced prisoners.

27. Temporary prisons: Generally established and used only for the prisoners of the category determined by the Minister of Justice.

28. Department of Corrections figures showed 11,232 staff against a total prison population of 302,339 prisoners in November 2016.

### Length of prison sentences, as of 1 December 2016



### Length of prison sentences, as of 1 December 2016

Sentence	Male	Female	Total
Less than 3 months	3,188	412	3,600
3-6 months	3,101	561	3,662
6 months - 1 year	16,731	2,242	18,973
1-2 years	25,942	4,555	30,497
2-5 years	59,104	10,893	69,997
5-10 years	46,886	6,507	53,393
10-15 years	17,638	2,566	20,204
15-20 years	11,132	2,136	13,268
20-50 years	22,057	3,883	25,940
Life sentence	4,055	501	4,556
Death sentence	165	11	176
<b>Total</b>	<b>209,999</b>	<b>34,267</b>	<b>244,266</b>

Below is an analysis of some of the key trends in Thailand's prison system and its population.

29. Serious repeat offenders. A house of relegation is an institution that keeps recidivist offenders who have committed offenses more than three times and whom the court believes are less likely to be rehabilitated.

## 1. Sixth highest prison population in the world, highest prison population in ASEAN

Thailand has the world's sixth highest number of inmates.<sup>30</sup> Thailand also has the dubious distinction of having the highest prison population in ASEAN with approximately 31% of the bloc's prison population, despite having 11% of the region's total population.<sup>31</sup>

**Prison population:** Total number of adult and juvenile prisoners (including pre-trial detainees) in the prison system.

As of 1 January 2017, Thailand's total prison population numbered 289,675 inmates.<sup>32</sup> The number reflected a decrease of approximately 17,000 people from December 2016, when the population stood at 306,948.<sup>33</sup> The decrease was the result of a royal amnesty.<sup>34</sup> Thailand's average yearly prison population has steadily increased over the years, from 220,776 in January 2011 to 289,675 in January 2017, and aside from the periodic royal amnesties, no other significant policy measures have been adopted to reduce the population.

## 2. Occupancy levels show overpopulated prisons

According to figures provided to FIDH and UCL by the Department of Corrections, as of January 2017, the official capacity of 148 prisons in Thailand's penitentiary system was 118,058 inmates compared to an actual prison population of 264,447 for those prisons, based on a space of 2.25m<sup>2</sup> per person mandated by the Department of Corrections.<sup>35</sup> These figures, which represent 91% of the overall prison population, give an occupancy level of 224%.<sup>36</sup> Occupancy levels in prisons in the South, the Northeast, and Central Thailand are higher than those in facilities in Bangkok.

**Official capacity:** The maximum number of people that can be accommodated in the prison system without overcrowding, based on the standards of the country concerned.

**Occupancy level:** Official (un-crowded) capacity of the prison system against the total prison population as a percentage of the capacity figure. The percentage is the occupancy level, which demonstrates whether a prison system holds more prisoners than it is intended to hold, and by how much.

Note that the occupancy level is not the same as the level of overcrowding. This is because the official capacity is the maximum number of people that can be accommodated in the prison system, based on the standards of the country concerned.

While the government has failed to address the issue of overcrowding, in recent years the Department of Corrections has reduced the 2.25m<sup>2</sup> space requirement to 1.1m<sup>2</sup> for women and 1.2m<sup>2</sup> for men.<sup>37</sup> This results in a significantly lower overall occupancy level of 145% (for prison population figures from September 2015 and an official maximum capacity of 217,000).<sup>38</sup>

30. According to the World Prison Brief, Institute for Criminal Policy Research's Highest to Lowest - Prison Population Total ranking of 223 territories, based on January 2017 data for Thailand. World Prison Brief, Institute for Criminal Policy Research, Highest to Lowest - Prison Population Total, accessed on 16 February 2017, [http://www.prisonstudies.org/highest-to-lowest/prison-population-total?field\\_region\\_taxonomy\\_tid=All](http://www.prisonstudies.org/highest-to-lowest/prison-population-total?field_region_taxonomy_tid=All)

31. FIDH's calculation based on World Prison Brief, Institute for Criminal Policy Research's figures for other nine ASEAN countries.

32. Department of Corrections, *Statistics of incarcerated persons nationwide*, 1 January 2017, <http://www.correct.go.th/stat102/display/result.php?date=2017-01-01&Submit=%B5%A1%C5%A7>

33. Department of Corrections, *Statistics of incarcerated persons nationwide*, 15 December 2016, <http://www.correct.go.th/stat102/display/result.php?date=2016-12-15&Submit=%B5%A1%C5%A7>

34. Gazette, *Royal pardon on the first occasion since his majesty's ascension to the throne to show his mercy*, B.E. 2559, 11 December 2016, <http://www.ratchakittha.soc.go.th/DATA/PDF/2559/A/104/33.PDF>

35. Figures provided by the Department of Corrections in January 2017.

36. The Department of Corrections did not provide UCL with the official capacity for all prisons nationwide.

37. Official capacity figures provided to UCL by the Department of Corrections cite 1.1m<sup>2</sup> and 1.2m<sup>2</sup> of space per person. Replies of Thailand to the UN Human Rights Committee's List of Issues cites 1.2m<sup>2</sup> of space per person: UN Human Rights Committee, 119th session, *Replies of Thailand to the list of issues*, 15 November 2016, UN Doc. CCPR/C/THA/Q/2/Add.1, Para. 89.

38. Based on the most recent maximum official capacity figure of 217,000, released by the Department of Corrections in September 2015. World Prison Brief, Institute for Criminal Policy Research, *Thailand*, accessed on 16 February 2017, <http://www.prisonstudies.org/country/thailand>

### 3. Highest incarceration rate among ASEAN countries

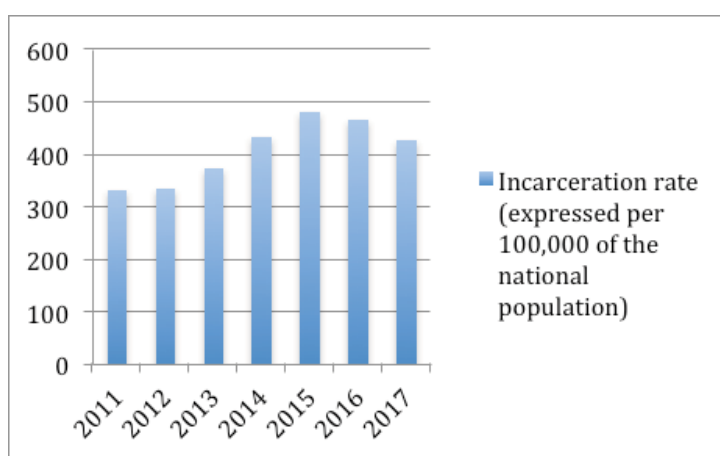
At 425 inmates per 100,000 of the national population, Thailand has the 10th highest incarceration rate out of 221 territories, and the highest incarceration rate among ASEAN countries.<sup>39</sup> Figures from 2011-2015 show an overall increase in the incarceration rate.

**Imprisonment rate (or incarceration rate or prison population rate):** Refers to the number of persons under the jurisdiction (or legal authority) of correctional officers per 100,000 of the national population.

#### Incarceration rate from 2011-2017

Year	Prison population (on 1 January)	Incarceration rate (expressed per 100,000 of the national population) <sup>40</sup>
2017	289,675	425
2016	316,919	465
2015	325,361	479
2014	291,734	431
2013	251,819	373
2012	224,864	335
2011	220,776	331

#### Incarceration rate (per 100,000 of the national population)



### 4. High percentage of prisoners jailed for drug-related crimes

As of January 2017, Thailand had 208,391 people (or 72% of the total prison population) incarcerated for drug-related offenses. The percentages consistently increased from 2011, with the exception of 2016. Seventy percent of the male prison population and 82% of the female prison population are incarcerated for drug-related offenses. The percentages are also the highest among ASEAN countries that have available figures. Among prisoners under death sentence, 163 out of 364 men (45%) and 59 out of 71 women (a staggering 83%) had been found guilty of drug-related offenses. The harsh punishment for

39. World Prison Brief, Institute for Criminal Policy Research, *Highest to Lowest - Prison Population Rate*, accessed on 16 February 2017, [http://www.prisonstudies.org/highest-to-lowest/prison\\_population\\_rate?field\\_region\\_taxonomy\\_tid=All](http://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=All)

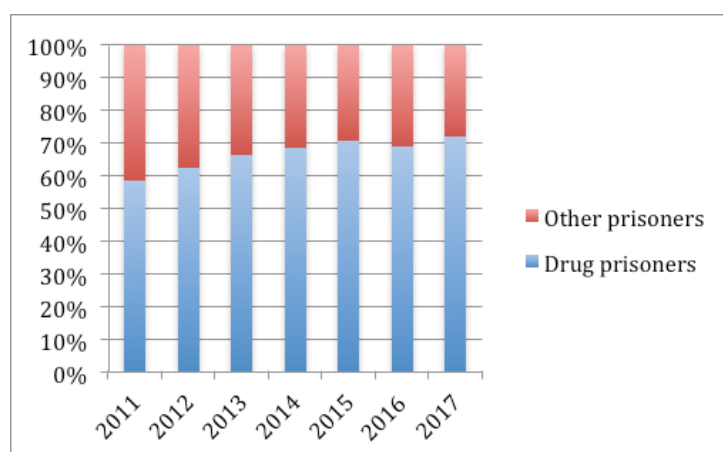
40. CIA World Factbook for years 2011-2017.

drug crimes in Thailand, including life imprisonment or a death sentence for distribution and up to 10 years' imprisonment for possession of some types of narcotics, largely contributes to the overcrowding in the penitentiary system.

### Prisoners detained for drug-related crimes from 2011-2017

Year (January) <sup>41</sup>	Male	Female	Total	Percentage of total prison population
2017	176,212	32,179	208,391	72%
2016	183,062	35,594	218,656	69%
2015	191,787	38,287	230,074	71%
2014	166,530	33,923	200,453	68%
2013	138,665	28,044	166,709	66%
2012	114,249	25,824	140,073	62%
2011	104,447	24,303	128,750	58%

### Percentage of prison population under drug charges vs. prison population facing other charges



## 5. High percentage of prisoners under death sentence convicted of drug-related crimes

Despite the December 2016 royal amnesty, which was meant to commute the death sentences of prisoners to life imprisonment terms, as of January 2017, a total of 435 inmates (364 men and 71 women) remained under death sentence. Overall, 51% of inmates under death sentence in January 2017 had been convicted of drug-related offenses. Two hundred and one men and 12 women were under death sentence for non-drug offenses.<sup>42</sup>

The proportion of inmates sentenced to death for drug-related offenses compared to other inmates sentenced to death for other crimes (such as: premeditated murder, rape resulting in death, kidnapping, terrorism, spying, treason, economic crimes, corruption, and human trafficking) has remained relatively consistent over time (since at least June 2012).

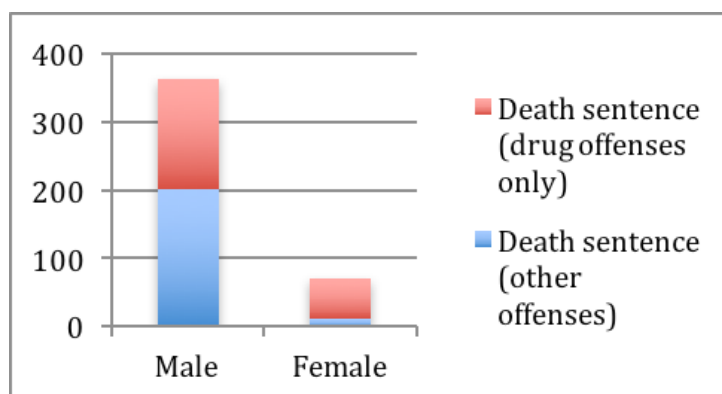
41. Figures for 2016 are from February. Department of Corrections' statistics for January 2016 were incomplete.

42. Department of Corrections, Statistics of prisoners under death sentence, December 2016, 4 January 2017, <http://www.correct.go.th/stathomepage/ประหารชีวิตคค59.pdf>

### Prisoners under death sentence (January 2017)

	Male	Female
Non-drug related offenses	201	12
Drug offenses only	163	59
<b>Total</b>	<b>364</b>	<b>71</b>

### Prisoners under death sentence (January 2017), broken down by gender



## 6. World's highest incarceration rate of women

Thailand had the highest incarceration rate of women in the world, based on 2015 figures. As of January 2017, Thailand had a female incarceration rate of 113 female prisoners per 100,000 of the national female population.<sup>43</sup>

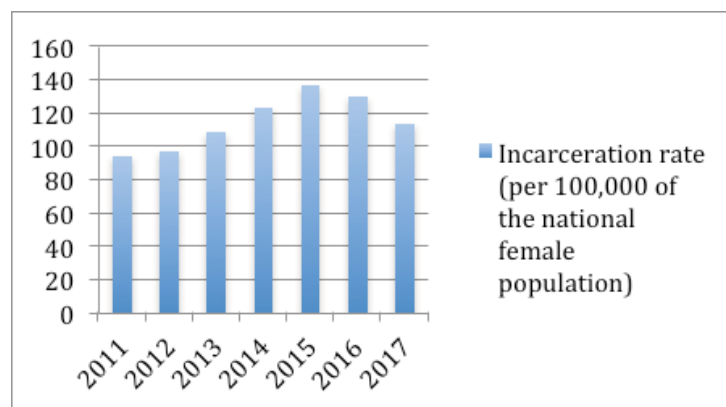
### Incarceration rate of women from 2011-2017

Year	Female prison population (on 1 January)	Incarceration rate (expressed per 100,000 of the national female population) <sup>44</sup>
2017	39,336	113
2016	45,132	130
2015	46,912	136
2014	42,232	123
2013	36,986	108
2012	32,810	97
2011	31,734	94

43. Prison Policy Initiative, *States of Women's Incarceration: The Global Context*, 2015, <https://www.prisonpolicy.org/global/women/#data>

44. CIA World Factbook for years 2011-2017.

## Incarceration rate of women (per 100,000 of the national female population)



Thailand has the fourth highest number of women imprisoned in the world, after the United States, China, and Russia.<sup>45</sup> As of January 2017, 32,179 women – or 82% of the female prison population – were incarcerated for drug-related offenses (See above, 4. *High percentage of prisoners jailed for drug-related crimes*). In January 2017, Thailand's female prison population of 39,336 constituted 13.6% of its total prison population, ranking it 11th among 221 territories with the highest percentage of their female population behind bars.<sup>46</sup>

## 7. Sizeable pre-trial and remand prison population

As of January 2017, 59,070 prisoners – or 20.4% of Thailand's prison population – were pre-trial/ongoing trial or remand prisoners.

### Percentage of pre-trial/ongoing trial prisoners, from 2011-2017

Year	Percentage of pre-trial/ongoing trial prisoners
2017	20.4%
2016	18.4%
2015	21.3%
2014	23.6%
2013	26.4%
2012	25.1%
2011	26.7%

Pre-trial and remand prisoners are often housed in the same wings as convicted prisoners due to overcrowding. (See below, *Case studies: The Central Women's Correctional Institution and the Bangkok Remand Prison*).

45. FIDH's calculations based on figures from January 2017 for Thailand.

46. World Prison Brief, Institute for Criminal Policy Research, Highest to Lowest - Female Prisoners (percentage of prison population), accessed on 16 February 2017, [http://www.prisonstudies.org/highest-to-lowest/female-prisoners?field\\_region\\_taxonomy\\_tid=All](http://www.prisonstudies.org/highest-to-lowest/female-prisoners?field_region_taxonomy_tid=All)



# V. SUB-STANDARD PRISON CONDITIONS

## Restrictions on access to prisons

Since the May 2014 military coup, access to prisons has become more difficult.

During Thailand's second Universal Periodic Review (UPR) between May and September 2016, the government accepted one recommendation that called for the creation of "an external, independent inspection body that has access to all categories of prisoners in all places of detention" under the Ministry of Justice.<sup>47</sup> The recommendation was accepted on the condition that the National Human Rights Commission of Thailand (NHRCT) and the Ombudsman be recognized as the sole authorities able to conduct prison visits.<sup>48</sup>



A prison police stands guard with a baton as he watches inmates enter a compound at Bangkok's Klong Prem Prison on 9 August 2002. © Stephen Shaver / AFP

47. Recommendation accepted during the September session of the review. UN Human Rights Council, 33rd session, *Report of the Working Group on the Universal Periodic Review - Thailand - Addendum*, 7 September 2016, UN Doc. A/HRC/33/16/Add.1, Para. 7 (Recommendation 159.31).

48. UN Human Rights Council, 33rd session, *Report of the Working Group on the Universal Periodic Review - Thailand - Addendum*, 7 September 2016, UN Doc. A/HRC/33/16/Add.1, Para. 7.

In addition, during the review, the government claimed that the NHRCT regularly visited all prisons and detention facilities.<sup>49</sup> The government also said that prisoners and detainees could file complaints and requests for visits by the NHRCT and the Ombudsman,<sup>50</sup> and that the NHRCT was the independent body responsible for receiving complaints and investigating all torture allegations.<sup>51</sup> However, members of the NHRCT have reported difficulty visiting certain prisoners or prisons despite their official capacity.<sup>52</sup>

To conduct this research, FIDH/UCL submitted three written requests to the Department of Corrections in order to conduct interviews with prisoners in two different prisons. The Department of Corrections rejected all three requests (two by letter and one orally), on the grounds that the information provided could be “distorted or inaccurate,” which could have “an impact on the security or image of the prison.”<sup>53</sup> While the Department of Corrections was able to provide FIDH/UCL with some statistics, they were unable to reveal key information, such as the official capacity of the entire penitentiary system.

## **Case studies: The Central Women's Correctional Institution and the Bangkok Remand Prison**

In November 2016, in its reply to the United Nations (UN) Human Rights Committee (CCPR)'s List of Issues (LoI), the Thai government asserted that Thailand respected prisoners' rights and dignity and that prison conditions met international standards.<sup>54</sup> The government also mentioned efforts to improve women prisoners' wellbeing and standard of living.<sup>55</sup>

However, testimonies gathered by FIDH/UCL during interviews with six former prisoners from the Central Women's Correctional Institution (CWCI), five former prisoners from the Bangkok Remand Prison (BRP), and family members of current prisoners from the BRP contradict the government's statements. Research indicates that poor living conditions, including inadequate access to medical treatment, food and potable water, and poor sanitation facilities continue to plague these two prisons. These conditions fail to meet international standards. It is likely that similar conditions exist in other prisons across Thailand.

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49. UN Human Rights Council, 33rd session, *Report of the Working Group on the Universal Periodic Review - Thailand - Addendum*, 7 September 2016, UN Doc. A/HRC/33/16/Add.1, Para. 8.

50. UN Human Rights Council, 33rd session, *Report of the Working Group on the Universal Periodic Review - Thailand - Addendum*, 7 September 2016, UN Doc. A/HRC/33/16/Add.1, Para. 8.

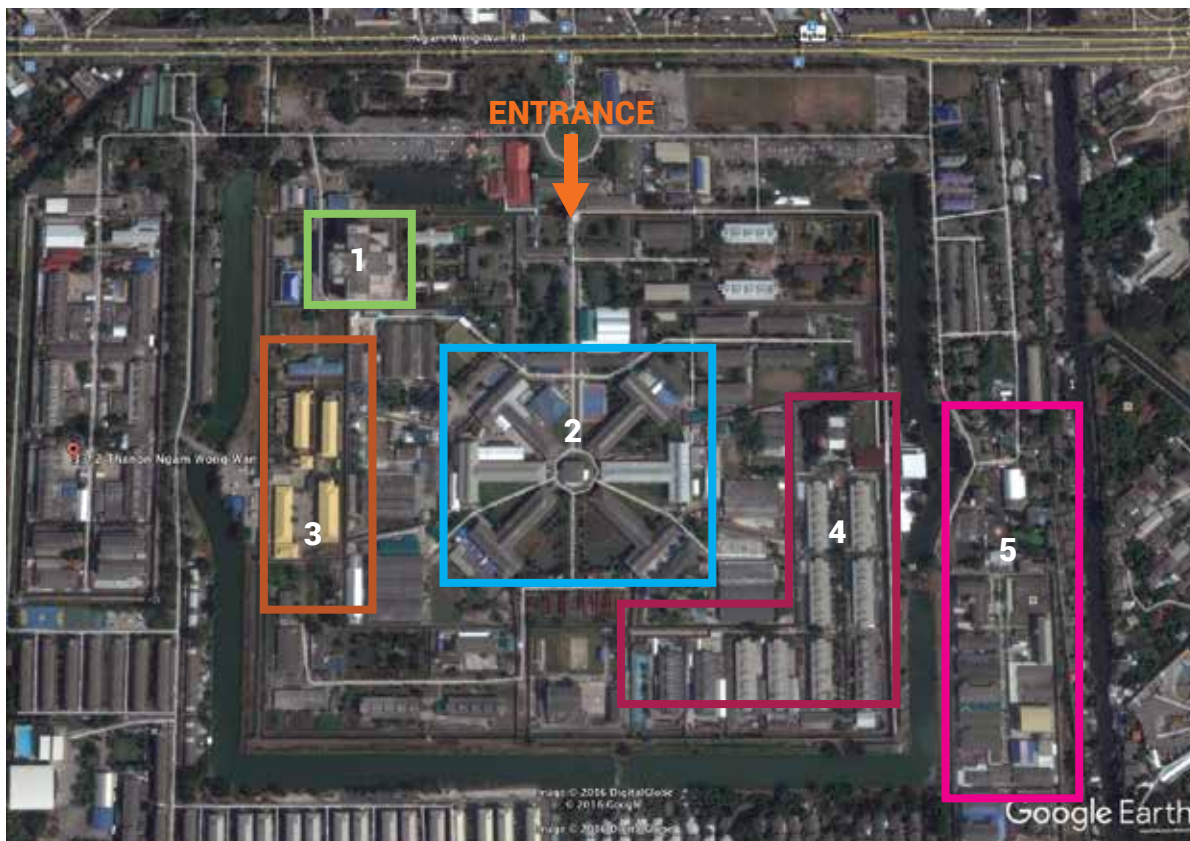
51. UN Human Rights Council, 33rd session, *Report of the Working Group on the Universal Periodic Review - Thailand - Addendum*, 7 September 2016, UN Doc. A/HRC/33/16/Add.1, Para. 4.

52. Bangkok Post, *Pattani prison riot leaves three inmates dead*, 16 July 2016; Amnesty International, *Report 2015/16, State of the World's Human Rights*, 2016, p. 360.

53. Letter to UCL from the Department of Corrections, *Permission to collect data for the research*, 4 October 2016; Letter to UCL from the Department of Corrections, *Permission to collect data for the research*, 1 November 2016.

54. UN Human Rights Committee, 119th session, *Replies of Thailand to the list of issues*, 15 November 2016, UN Doc. CCPR/C/THA/Q/2/Add.1, Para. 88.

55. UN Human Rights Committee, 119th session, *Replies of Thailand to the list of issues*, 15 November 2016, UN Doc. CCPR/C/THA/Q/2/Add.1, Para. 92.



Satellite map showing the location of the Central Women's Correctional Institution (CWCI) and the Bangkok Remand Prison (BRP). Source: Google Earth

**Legend:**

1. Medical Correctional Hospital (hospital for sick inmates; population: 337; official capacity: N/A)
2. Klong Prem Central Prison (population: 5,855 ; official capacity: 4,123)
3. Bangkok Remand Prison (population: 3,850; ; official capacity: 2,385)
4. Central Correctional Institution for Drug Addicts (population: 8,535; official capacity: 2,442)
5. Central Women's Correctional Institution (population: 4,522; official capacity: 1,868)

**The Central Women's Correctional Institution**

As of 1 January 2017, the CWCI, located on Ngamwongwan Road in Bangkok's Chatuchak District had 4,522 inmates, of which 3,496 (77%) were detained for drug-related offenses, and an occupancy rate of 242%. The prison had 164 prison officers (158 female officers and six male officers), as of 28 November 2016.<sup>56</sup>

Of the 4,522 prisoners, 3,259 were convicted; 337 were awaiting trial; 428 were under inquiry; 497 were waiting on appeals in their cases to higher courts; and one was sentenced to relegation.<sup>57</sup>

Newly admitted prisoners, namely prisoners awaiting trial, are held at the southern end of the CWCI, while convicted prisoners are located further inside the complex. The southern end of the CWCI has two dormitories: 'Pet Building' and 'Tabtim Building'. Inside the area for convicted prisoners there are two administration buildings, six dormitories: 'Bua Meta Building', 'Bua Karuna Building', 'Petai Building'

56. Department of Corrections statistics on correctional officers, 28 November 2016.

57. Department of Corrections, *Statistics of incarcerated persons nationwide*, 1 January 2017, <http://www.correct.go.th/stat102/display/result.php?date=2017-01-01&Submit=%B5%A1%C5%A7>

(where many pregnant prisoners and elderly prisoners are housed), 'Butsarakhm Building' (for those serving life sentences or sentenced to death), 'Paitoon Building' (for those serving 25-year sentences), and 'Pailin Building' (for those serving less than 10-year sentences); four work areas; one canteen; a school building with a library; a medical center; a visitor reception building; and two open-air bathing areas.<sup>58</sup>

While there are separate zones for convicted prisoners and prisoners awaiting trial, the prison does not adhere to this system of separation due to overcrowding. In addition, elderly prisoners, sick prisoners, and prisoners with mental health issues are usually housed with the general prison population.

## **The Bangkok Remand Prison**

As of 1 January 2017, the BRP, located on Ngamwongwan Road in Bangkok's Chatuchak District, had a total of 3,850 inmates, of which 220 (6%) were detained for drug-related offenses, and an occupancy rate of 161%. The prison had 361 prison officers (345 male and 16 female officers), as of 28 November 2016.<sup>59</sup>

Of the 3,850 prisoners, 2,702 were convicted; 411 were awaiting trial; 271 were under inquiry; 463 were waiting on appeals of their cases to higher courts; two were sentenced to relegation; and one was a detained juvenile.<sup>60</sup>

The BRP is separated into eight wings. Wing 2 (for prisoners aged 18-25 years old), Wing 4, Wing 6, and Wing 8 are designated for pre-trial detainees. Wing 1, Wing 3, Wing 5, and Wing 7 are for convicted prisoners. However, the prison does not adhere to this system of separation due to overcrowding.

### ***Overcrowded dormitories, cramped sleeping space***

The CWCI and the BRP face high levels of overcrowding and inadequate living conditions. The International Committee of the Red Cross (ICRC) puts the minimum space for accommodation at 3.4m<sup>2</sup> per person in shared or dormitory accommodation.<sup>61</sup> The minimum space currently mandated by the Department of Corrections (1.1m<sup>2</sup> for women and 1.2m<sup>2</sup> for men) is only 32% and 35% of that amount, respectively.<sup>62</sup>

The sleeping dormitories at the CWCI and the BRP are empty rooms with linoleum floors. Dormitory sizes vary. However, many former prisoners reported 70-80 people having to share a space of approximately 32m<sup>2</sup> at the CWCI and 40-50 people in a dormitory of about 24m<sup>2</sup> at the BRP. Inmates at the CWCI only have an estimated space of about 0.45m (width), while inmates at the BRP reported having a space of approximately 0.60m (width) each when sleeping, significantly lower than the standard specified by the ICRC. As a result, inmates at both the CWCI and the BRP are forced to sleep on their sides due to the insufficient space, and in order to avoid conflicts with other inmates. Former inmates at both prisons reported experiencing back and leg pain because they could not move while sleeping. Former prisoners at the BRP reported that prisoners had to lay their legs on one another because of the crowded sleeping areas.

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58. UCL, *Prisons in Thailand 2011*, 2011, p. 58-59.

59. Department of Corrections statistics on correctional officers, 28 November 2016.

60. Department of Corrections, *Statistics of incarcerated persons nationwide*, 1 January 2017, <http://www.correct.go.th/stat102/display/result.php?date=2017-01-01&Submit=%B5%A1%C5%A7>

61. ICRC, *Water, Sanitation, Hygiene and Habitat in Prisons*, August 2005, p. 25; ICRC, *Water, Sanitation, Hygiene and Habitat in Prisons, Supplementary Guidance*, April 2012, p. 32-33.

62. UN Human Rights Committee, 119th session, *Replies of Thailand to the list of issues*, 15 November 2016, UN Doc. CCPR/C/THA/Q/2/Add.1, Para. 89.

According to the ICRC, no more than 40-50 persons should be accommodated in a room where inmates sleep and then only when the available space, ventilation, and lighting meet the ICRC's recommended specifications.<sup>63</sup> The ICRC has observed that when this number is exceeded, it becomes increasingly difficult for inmates to access essential services, such as toilets and water. It also becomes difficult to ensure the safety of all inmates without compromising minimum standards.<sup>64</sup>

Former prisoners from both the CWCI and the BRP revealed that there are dormitories with better conditions reserved for prisoners with good behavior and for the purpose of receiving visits from UN, European Union (EU), or National Human Rights Commission of Thailand (NHRCT) officials. These dormitories are cleaner and larger than the dormitories where most prisoners sleep.

Prisons classify prisoners into six classes based on their behavior: 1) Excellent class; 2) Very good class; 3) Good class; 4) Moderate class; 5) Bad class; 6) Very bad class. Prisoners with good behavior either belong to the 'excellent' or 'very good' class of prisoners.

Fluorescent lights at the CWCI and the BRP affect prisoners' sleep. Former inmates at the CWCI reported that there are four fluorescent lights in each sleeping area, two of which are kept on throughout the night due to fear of prisoners escaping. According to one former inmate, another reason for keeping the lights on is to facilitate the night patrols. Prisoners at the CWCI are required to take turns as security guards at night due to the shortage of officers.<sup>65</sup> There are eight one-hour shifts beginning at 9pm. Two prisoners are assigned to each shift.

At the BRP, according to one former inmate, the smaller dormitories have two to three fluorescent lights, while the larger ones have five to six lights. The lights are kept on throughout the night, to prevent the prisoners from escaping or breaking the rules. Prisoners take turns staying up during the night to patrol.

The ICRC states that artificial lighting should not be kept on 24 hours a day in areas where detainees sleep and should not be so powerful that it disturbs the sleep of prisoners.<sup>66</sup>

Inmates cannot see the external environment from their dormitories. One former inmate from the CWCI reported that her dormitory had no windows that would enable inmates to see outside. Iron bars are used to separate the dormitories from one another at both prisons. The former prisoners reported that there was an insufficient number of fans, with one to two ceiling fans per dormitory at the CWCI and four to five fans per dormitory at the BRP. As a result, it was too hot in summer (from February to May) and too cold in winter (from October to February). One former prisoner from the BRP commented that one winter was so cold that the prisoners were forced to use their sleeping mats and pillows as well as their blankets to keep warm.

The ICRC states that the total size of windows and openings in a cell or accommodation area should be no less than 10% of the floor space, and that windows should allow inmates to see part of the external environment.<sup>67</sup> The UN Standard Minimum Rules for the Treatment of Prisoners require that prisoners be provided with sufficient bedding.<sup>68</sup>

63. ICRC, *Water, Sanitation, Hygiene and Habitat in Prisons*, August 2005, p. 25-26.

64. ICRC, *Water, Sanitation, Hygiene and Habitat in Prisons, Supplementary Guidance*, April 2012, p. 36.

65. Department of Corrections regulation (1982) on prisoners performing duty as security guard at night.

66. ICRC, *Water, Sanitation, Hygiene and Habitat in Prisons, Supplementary Guidance*, April 2012, p. 20, p. 37.

67. ICRC, *Water, Sanitation, Hygiene and Habitat in Prisons, Supplementary Guidance*, April 2012, p. 37.

68. Rule 21 of the UN Standard Minimum Rules on the Treatment of Prisoners states, "Every prisoner shall, in accordance with local or national standards, be provided with a separate bed and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness."

## ***Insufficient water, sanitation***

Inmates at the CWCI and the BRP do not have an adequate supply of water for personal hygiene. Former inmates from the CWCI and the BRP reported that water was available in the mornings between 5.30am and 7am. According to one former prisoner, this small window of time for bathing was stressful for the inmates as around 50-70 prisoners used the area at the same time. Former prisoners at the CWCI showered in an open space, which had two water tanks in the middle of the space. The shower installation at the CWCI consists of a pipe with holes, under which prisoners can wash. The time allocated for showers is determined by a prisoner, who is in charge of counting up to 30. The CWCI also uses a bowl washing system, which prisoners can use to bathe for up to 10 counts.

One former inmate from the CWCI reported that prisoners in charge of counting the bathing time were given preferential treatment and allowed to use as many bowls of water as they wanted. Prison guards also kept water in a separate tank and sold this to prisoners, which would lead to a shortage of water for the other prisoners.

Prisoners at the BRP shower using the bowl washing system in the morning and the pipe system in the evening. The BRP's shower area has one water tank to which prisoners will rush to have enough water to shower. However, they do not have the same time restrictions as at the CWCI. One prisoner from the BRP described the situation at the showers at the BRP, *"If you don't fight, you won't get a space in the shower before the water has run out."*<sup>69</sup>

The UN Standard Minimum Rules for the Treatment of Prisoners stipulate that showering and bathing areas must provide for adequate hygiene.<sup>70</sup> In addition, the ICRC states that water supply must be sufficient to provide an adequate flow of water to showers and toilets throughout the day, particularly at times of heavy demand.<sup>71</sup> The ICRC further recommends that where the management strategy and daily regime provide restricted access to showers, the number of showers should be increased to more than one shower per 50 detainees so that detainees can shower within the more restricted time periods during which the facilities are available to them.<sup>72</sup>

The toilets at the CWCI and the BRP lack privacy and are too few in number. According to former prisoners at the CWCI, each dormitory has one Turkish/squat toilet at the back of the cell. Additional Turkish/squat toilets (with 0.60m barriers between each of them) are located near the bathing zone. One former prisoner from the BRP reported that his dormitory had two toilets, but that there were additional toilets outside the dormitory. The toilets do not have doors. One of the former prisoners from the CWCI commented that prisoners had to wake up at 2-3am to begin queuing for the toilet in their dormitory.

The ICRC states that planners and managers must ensure that shower areas and arrangements offer privacy and safety for prisoners.<sup>73</sup> The ICRC also recommends no less than one toilet per 25 detainees,<sup>74</sup> and that prisoners using toilets should not be in full view of other detainees.<sup>75</sup>

69. FIDH/UCL, *Interview with former prisoner from the BRP*, October 2016.

70. Rule 16 of the UN Standard Minimum Rules for the Treatment of Prisoners states, "Adequate bathing and shower installations shall be provided so that every prisoner can, and may be required to, have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate."

71. ICRC, *Water, Sanitation, Hygiene and Habitat in Prisons, Supplementary Guidance*, April 2012, p. 54.

72. ICRC, *Water, Sanitation, Hygiene and Habitat in Prisons, Supplementary Guidance*, April 2012, p. 38.

73. ICRC, *Water, Sanitation, Hygiene and Habitat in Prisons, Supplementary Guidance*, April 2012, p. 53.

74. ICRC, *Water, Sanitation, Hygiene and Habitat in Prisons, Supplementary Guidance*, April 2012, p. 38.

75. ICRC, *Water, Sanitation, Hygiene and Habitat in Prisons, Supplementary Guidance*, April 2012, p. 53.



Female prisoners are provided with an insufficient number of sanitary pads for proper hygiene. In addition, the sanitary pads are of poor quality. One former prisoner from the CWCI said that prisoners were only given four packets of sanitary pads every six months. The insufficient number and poor quality of sanitary pads distributed to the women means that most of the prisoners have to buy sanitary products from the prison shop at their own expense.

The ICRC states that women should be provided with a sufficient supply of suitable sanitary products to deal with menstruation to meet individual needs.<sup>76</sup> The UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders state that the accommodation of women prisoners shall have material required to meet specific hygiene needs, including sanitary pads, provided free of charge.<sup>77</sup>

### ***“Terrible” food, dirty drinking water***

Inmates at the CWCI lack adequate food and potable drinking water. At the CWCI, meal times are at 6.30am, 11.30am, and 2.30pm. Meal times at the BRP are at 7am (or 7.30am), 11am, and 2pm. The former prisoners from the CWCI and the BRP described the prison food as tasteless and lacking in nutritional value. One former prisoner from the CWCI said that the poor quality of prison food had resulted in undernourishment for some inmates. Another former inmate from the BRP said that he lost weight in prison because he could not eat the prison food and stayed hungry at night. Another prisoner commented, *“When eating you have to be careful because sometimes there were stones and sand in [the food].”*<sup>78</sup>

One former prisoner at the CWCI said that the meals were so “terrible” that prisoners who had money preferred to buy their own meals from the prison shop or order food from outside the prison. When they did eat the food, prisoners would have to add chili sauce, fish sauce, and lime from the prison shop to add flavor to the meals. Former prisoners from the BRP confirmed that prisoners who could afford to buy other food would order it from the prison shop or from food shops outside the prison. One former prisoner from the BRP said that when he was first detained, he received a lot of dried food from his family, but that he stopped receiving the food after one week despite the fact that his family had continued to send it.

Inmates at both the CWCI and the BRP said that they had to rush during breakfast. Former prisoners at the CWCI reported they only had about 45 minutes to queue for food and eat, and had to rush to finish their food. While time for lunch and dinner was slightly longer (about one hour), the queue was very long and prisoners would sometimes skip meals if they did not have enough time to eat. One former prisoner recalled, *“Prisoners receive three meals per day but some only eat two. The only option is to order food from outside because the line at the canteen was always long and I got tired of waiting.”*<sup>79</sup>

The UN Standard Minimum Rules for the Treatment of Prisoners state, “every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.”<sup>80</sup>

76. ICRC, *Water, Sanitation, Hygiene and Habitat in Prisons, Supplementary Guidance*, April 2012, p. 61.

77. Rule 5 of the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders states, “The accommodation of women prisoners shall have facilities and materials required to meet women’s special hygiene needs, including sanitary towels provided free of charge and a regular supply of water to be made available for the personal care of children and women, in particular women involved in cooking and those who are pregnant, breastfeeding or menstruating.”

78. FIDH/UCL, *Interview with former prisoner from the BRP*, September 2016.

79. FIDH/UCL, *Interview with former prisoner from the CWCI*, October 2016.

80. UN Standard Minimum Rules for the Treatment of Prisoners, Rule 22(1).

Inmates do not have an adequate supply of drinking water due to the prison's poor water supply capacity. At the CWCI, there are water tanks at each building. However, some buildings have poor quality water filtration systems. As a result, some prisoners drink water that is not properly filtered or not filtered at all.

Inmates are allowed to buy bottled water from the prison shop but it is not always in stock and they are only allowed to spend 300 baht (US\$8.57) per day for all items they purchase. Former inmates from the BRP said that each wing had two water dispensers that inmates could use to fill up their bottles. However, sometimes the machine did not work and they would have to buy bottled water from the prison shop instead.

The UN Standard Minimum Rules for the Treatment of Prisoners state, "drinking water shall be available to every prisoner when he or she needs it."<sup>81</sup>

### **Medical care: "Two-minute doctors", paracetamol**

The CWCI and the BRP lack an adequate staff of healthcare workers and their services are very difficult to access as a result. According to former inmates, the CWCI has a medical center with basic medical equipment and a nurse, employed by the Department of Corrections. A doctor (from outside the prison) visits the CWCI and the BRP two to three times a week. Different types of doctors, such as dermatologists, psychiatrists, and dentists are scheduled to come in on different days. Before visiting the medical center, a prison officer, who has no medical expertise, screens prisoners at both prisons and decides whether the prisoner should be allowed to go to the medical center. Prisoners have to leave their name with the prison officer and tell the officer what their ailment is. Later in the day, or the next day, the officer will call the prisoners who requested to go to the medical center.

According to the former prisoners at the CWCI, the doctors at the medical center do not do a lot in terms of medical treatment or diagnosis of ailments. One former prisoner said, "*In there [the prison], the doctors are called 'two-minute doctors' because they never have a conversation [with the inmates] longer than two minutes.*"<sup>82</sup>

The doctor and nurses usually prescribe *paracetamol* to treat most ailments. One former prisoner from the BRP said, "*They [the doctor] will sit far away from us like they are disgusted by us. They will shout to ask what the matter is and give us paracetamol.*"<sup>83</sup>

As a result of the poor medical care, many inmates preferred to take care of themselves. One former prisoner at the CWCI recounted, "*My eye was infected and I chose to rinse my eye with my urine because I wouldn't get eye drops from them anyway.*"<sup>84</sup> Another former prisoner at the CWCI said, "*The first thing I was told when I got there [to the CWCI] was that I must not get sick because if I got sick, I'd be better off dead.*"<sup>85</sup>

Former prisoners from the BRP described the healthcare services as "horrible." One of them recounted, "*Lots of people have abscesses and the treatment is not to see a doctor but to use a singed needle and pierce the wound and core it out. The blood will flow out of the wound, and then we cover the wound with tobacco. We cannot wait for the healthcare services because it takes too long. If there is anything we can do, we'll do it on our own.*"<sup>86</sup>

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81. UN Standard Minimum Rules for the Treatment of Prisoners, Rule 22(2).

82. FIDH/UCL, *Interview with former prisoner from the CWCI*, December 2016.

83. FIDH/UCL, *Interview with former prisoner from the BRP*, October 2016.

84. FIDH/UCL, *Interview with former prisoner from the CWCI*, December 2016.

85. FIDH/UCL, *Interview with former prisoner from the CWCI*, December 2016.

86. FIDH/UCL, *Interview with former prisoner from the BRP*, October 2016.



Many inmates at the CWCI and the BRP suffer from diseases and infections that easily spread among inmates due to the overcrowding and shortage of healthcare staff. While sick prisoners are supposed to be kept separate from other prisoners, this is difficult to implement in practice due to overcrowding. Diseases that inmates commonly contract in the prison include skin diseases, such as scabies and abscesses, and tuberculosis. According to the Department of Corrections, there are seven medical workers at the CWCI, and six medical workers at the BRP, including a psychologist. There is a properly equipped Medical Correctional Hospital for both male and female inmates, which is located within the prison complex (See above, *Satellite map showing the location of the Central Women's Correctional Institution (CWCI) and the Bangkok Remand Prison (BRP)*).

At the CWCI and the BRP, access to emergency medical care at night, weekends, and public holidays is either not provided or extremely limited. In some cases, the only available emergency medical care is provided by designated prisoner volunteers.

The UN Standard Minimum Rules for the Treatment of Prisoners state, “the provision of healthcare for prisoners is a state responsibility. Prisoners should enjoy the same standards of healthcare that are available in the community, and should have access to necessary healthcare services free of charge without discrimination on the grounds of their legal status.”<sup>87</sup> They also state, “The healthcare service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full clinical independence and shall encompass sufficient expertise in psychology and psychiatry. The services of a qualified dentist shall be available to every prisoner.”<sup>88</sup>

At the CWCI, pregnant women stay in the same dormitories as other prisoners. Pregnant women go to the Medical Correctional Hospital to give birth. One former prisoner described another prisoner's experience giving birth at the Medical Correctional Hospital, “*When my friend gave birth, the doctor told her not to scream. If she screamed, the doctor would not deliver her baby. After she gave birth, she was allowed to stay at the hospital for 30 minutes and then was sent back [to the CWCI]. Her baby slept in the dormitory with her for 11 months.*”<sup>89</sup>

The UN Standard Minimum Rules for the Treatment of Prisoners state, “In women's prisons, there shall be special accommodation for all necessary prenatal and postnatal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the prison.”<sup>90</sup>

### **Exploitative prison labor**

Working conditions at the CWCI and the BRP are harsh and the remuneration is insufficient. At the CWCI, jobs are allocated based on qualifications and skills, as stipulated by ministerial regulation.<sup>91</sup> Prisoners with university degrees will be sent to work in the library or prison shop. Prisoners work seven days a week (from 8am to 4pm at the CWCI, and from 8am to 2pm or 3pm at the BRP). The prison gives prisoners a stipend for their work, which varies depending on the type of work. For example, prisoners who work in painting and handicrafts can earn about 67 baht (US\$1.91)/day, whereas prisoners doing unskilled labor can earn about 8 baht (US\$0.23)/day.

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87. UN Standard Minimum Rules for the Treatment of Prisoners, Rule 24(1).

88. UN Standard Minimum Rules for the Treatment of Prisoners, Rule 25(2).

89. FIDH/UCL, Interview with former prisoner from the CWCI, October 2016.

90. UN Standard Minimum Rules for the Treatment of Prisoners, Rule 28.

91. Article 50 of Department of Corrections ministerial regulation (1937) states that in allocating jobs to a convicted prisoner, the following matters shall be taken into consideration: 1) term of imprisonment; 2) physical condition; 3) intelligence; 4) character; 5) economic output; 6) training output; 7) condition of the prison.

There are four factories at the CWCI. Most of the work at the CWCI is laborious work, such as sewing, packaging, and folding paper. The prison officers specify how many items are to be produced each day. Prisoners who are unable to reach the daily quotas are punished. Punishment depends on the officer, but could involve the officer not giving the prisoner money for her work or keeping the prisoner at the factory until she has completed the task.

The working conditions at the BRP are equally harsh. Former prisoners from the BRP said they were required to produce a certain number of items per day. For example, 6,000 gold leaves or fold 1,000 paper bags. If they failed to meet the prescribed quota, they would be required to work overtime or be beaten. The prison guards would let other prisoners carry out the punishment.

One former prisoner from the BRP said that prisoners who folded paper bags would only earn 50 baht (US\$1.43) per month. Other types of work were better paid. He commented, *“There’s another task: fixing shoes. You get 100-200 baht (US\$2.86-US\$5.71) a month but the work is harder than slavery. The companies [who provide the work] and prison guards will have an agreement on what percentage of the whole earnings from the labor the prison guards are given.”*<sup>92</sup>

Another former prisoner from the BRP added that inmates were sometimes forced to work overtime or risk being beaten by prison officers, and were given about 200-300 baht (US\$5.71-US\$8.57) per month.

The UN Standard Minimum Rules for the Treatment of Prisoners state, “There shall be a system of equitable remuneration of the work of prisoners,”<sup>93</sup> and that “Prison labor must not be of an afflictive nature.”<sup>94</sup>



Thai inmates carve and stitch together women's shoes at Bangkok's Klong Prem Prison on 9 August 2002. © Stephen Shaver / AFP

92. FIDH/UCL, *Interview with former prisoner from the BRP*, October 2016.

93. UN Standard Minimum Rules for the Treatment of Prisoners, Rule 103(1).

94. UN Standard Minimum Rules for the Treatment of Prisoners, Rule 97(1).

## **Visits to prisoners cut short, correspondence censored**

Prisoners at the CWCI and the BRP have unreasonable restrictions placed on visits and correspondence with family and friends. Visiting hours at the CWCI and the BRP are from 8.30am to 12.30pm and from 1.00pm to 3.00pm, Monday to Friday. While prisoners at the BRP are supposed to be allowed 20-minute-visits,<sup>95</sup> in practice, former prisoners reported that these visits only last 10-15 minutes at the BRP. At the CWCI, visits usually last 15-25 minutes. Prison officers monitor all the conversations at both prisons.

One former prisoner described her experience of being strip searched prior to, and after visits, *“Every time I went out to the visiting area and because I was housed at the newly admitted wing I had to go through the gate and open my sarong for them to check that I didn’t bring anything out or take anything back in. Before they would just tap my sarong but later there were new officers who would put in their hands underneath my sarong [and make me] take off my bra.”*<sup>96</sup>

At both prisons inmates are able to write letters to people outside the prison. However, prison officers read and screen all the letters, and decide which letters are to be sent and not sent. If a letter portrays a negative image of the prison, the officers will not send it. The officers also screen incoming letters and withhold negative letters from the prisoners.

One former prisoner commented, *“When I didn’t have money, I wasn’t allowed to write that, I had to write something good like ‘I’m doing fine,’ because the letters would be censored by the officers.”*<sup>97</sup> Another former prisoner said, *“You have to use polite language in the letters you send to people outside prison and if you don’t, the officers will call you in and hit you because they will examine your letters.”*<sup>98</sup>

The UN Standard Minimum Rules for the Treatment of Prisoners state, “Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals: (a) By corresponding in writing [...]; and (b) By receiving visits.”<sup>99</sup>

## **Prisoners who complain face retaliation**

While procedures for making complaints exist, inmates are afraid of retaliation at the hands of prison authorities if they make a complaint. At the CWCI and the BRP, there are two ways of reporting a complaint to the prison officer: (1) making an oral complaint face-to-face, or (2) writing a complaint and dropping the letter in the complaint box.

Former inmates reported that most prisoners are afraid to make complaints about prison conditions for fear of retribution against them from guards or from other prisoners. One of the former prisoners stated, *“We don’t have the right to complain because whatever we do is wrong. If we say something back to them [the guards], they will call us to question us and test our discipline, which will have an effect on the test we take for upgrading our class [i.e. the list of classes of prisoners; excellent class, very good class, good class, moderate class, bad class, very bad class].”*<sup>100</sup> Another prisoner said, *“The prisoners did not complain about anything because if the officers find out who is making the complaint, they will undoubtedly mistreat the suspects as they think they are being challenged.”*<sup>101</sup>

95. Bangkok Remand Prison, accessed on 16 February 2016, <http://bangkokprison.com/wb/pages/th/tidtophutongkhang.php>

96. FIDH/UCL, *Interview with former prisoner from the CWCI*, December 2016.

97. FIDH/UCL, *Interview with former prisoner from the CWCI*, December 2016.

98. FIDH/UCL, *Interview with former prisoner from the BRP*, December 2016.

99. UN Standard Minimum Rules for the Treatment of Prisoners, Rule 58(1).

100. FIDH/UCL, *Interview with former prisoner from the CWCI*, December 2016.

101. FIDH/UCL, *Interview with former prisoner from the BRP*, October 2016.

Political prisoners who have international organizations monitoring their rights are less likely to be subjected to retaliation by guards. As a result, at the CWCI and the BRP, political prisoners often listen to other prisoners' complaints and then report these complaints to the prison officers.

The UN Standard Minimum Rules for the Treatment of Prisoners state, "Every prisoner shall have the opportunity each day to make requests or complaints to the prison director or the prison staff member authorized to represent him or her,"<sup>102</sup> and that such a prisoner "must not be exposed to any risk of retaliation, intimidation or other negative consequences as a result of having submitted a request or complaint."<sup>103</sup>

### ***Punishment could amount to torture***

Punishment practices at the prisons contravene international standards, and in some cases, could amount to torture and ill-treatment. Former prisoners from the CWCI described several types of punishment in the prison. The type of punishment handed out depends on the officer. One former prisoner reported that other inmates had beaten her and that the prison guards did not intervene, which is the norm when prisoners get into fights. After the fight, the guards would punish both prisoners.

Prisoners at the CWCI reported that solitary confinement was generally not used at the CWCI. However, other types of punishment included having one's feet chained until a guard deemed that the prisoner had calmed down – usually handed out for fighting with another prisoner. Such a punishment could range from three days to one week, or even to one month. Another type of punishment would be corner segregation – handed out for fighting with another prisoner. The length of time for this type of punishment could range from one to three months. One former prisoner stated, "*I had to sit in the corner of the floor for three months. I was not allowed to go anywhere; I had to stay in that place. Other prisoners were not allowed to talk to me. I stayed alone and prayed and meditated to keep me alive.*"<sup>104</sup>

Other types of punishment for minor offenses included, cleaning the sewer drains, mopping the floors, loss of entertainment (i.e. TV), loss of visitation rights, and jumping jacks. These types of punishment are often used in collective punishment, which is common at the CWCI. Often, when one inmate breaks a rule, the rest of the inmates in the same zone are also punished. One former prisoner from the BRP said a common form of punishment was cleaning toilets, mopping the floor, and collecting garbage.

The UN Standard Minimum Rules for the Treatment of Prisoners state, "In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment."<sup>105</sup> They also stipulate that the practice of collective punishment is prohibited.<sup>106</sup>

Former prisoners from the BRP reported being beaten by guards or being transferred to another wing/building as punishment for fighting. One former prisoner commented, "*Prisoners are afraid to be beaten because it's really serious. The officers use a wooden stick or a stick with a piece of rubber tied to the top. I got hit on the back and legs with a club once. Another time, I was beaten up by three officers.*"<sup>107</sup>

One former prisoner from the BRP also reported that solitary confinement could be imposed as punishment for serious offenses, such as stabbing another prisoner.

102. UN Standard Minimum Rules for the Treatment of Prisoners, Rule 56(1).

103. UN Standard Minimum Rules for the Treatment of Prisoners, Rule 57(2).

104. FIDH/UCL, *Interview with former prisoner from the CWCI*, October 2016.

105. UN Standard Minimum Rules for the Treatment of Prisoners, Rule 43(1).

106. UN Standard Minimum Rules for the Treatment of Prisoners, Rule 43(1)(e).

107. FIDH/UCL, *Interview with former prisoner from the BRP*, December 2016.

In the Thai government's response to the UN CCPR's LoI, the government claimed that instruments of restraint were only used when there was reasonable ground to suggest a prisoner was potentially dangerous to the life or body of others and there was no other choice of prevention, and when a detainee was taken outside the prison for a hearing or to any court proceeding.<sup>108</sup>

Prisoners' statements indicate that restraining devices, such as shackles, have been excessively used on prisoners. In addition, male prisoners, even those on trial for non-serious offenses, continue to be shackled when they are transported from prison to court hearings. The NHRCT has denounced this as a violation of an individual's rights and liberties.<sup>109</sup>

The UN Standard Minimum Rules for the Treatment of Prisoners state, "Instruments of restraint shall never be applied as a sanction for disciplinary offenses."<sup>110</sup>

### **Post-coup conditions: Increased restrictions**

FIDH and UCL's research shows a trend of increased restrictions in the CWCI and the BRP since the 22 May 2014 military coup. According to former inmates from both prisons, officials confiscated their mattresses, pillows, and blankets and replaced these items with three thin sackcloth blankets. Most inmates would lay one of the blankets down on the floor in place of a mattress. One former prisoner said, "Before the coup, I bought sleeping stuffs from the prison shop, so I had seven to eight blankets. But in late 2015, the officers took my sleeping mats, pillow and blankets and burned them, then gave us three blankets [each]."<sup>111</sup>

After the May 2014 coup, the Department of Corrections also began a strict enforcement of a 2012 regulation, which stipulates that prisoners are required to list a maximum of 10 people, from whom they could receive visits and/or correspondence.<sup>112</sup> Former prisoners and relatives of prisoners reported that some inmates were only allowed to receive visits and/or correspondence from people who had the same last name as the prisoner on their list. One former prisoner from the CWCI said, "We can only send letters to the 10 people on the family list, but we have to wait for almost three months if we want to add a new name to the list. These 10 names are the people to whom I can send letters and who can visit me, sometimes some relatives cannot visit the prisoners because they don't know about this rule."<sup>113</sup>

In addition, former prisoners at the CWCI and the BRP reported that after the coup the Department of Corrections banned newspapers and watching the news on TV, as well as books in the dormitories.

The UN Standard Minimum Rules for the Treatment of Prisoners state, "Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the prison administration."<sup>114</sup>

108. UN Human Rights Committee, 119th session, *Replies of Thailand to the list of issues*, 15 November 2016, UN Doc. CCPR/C/THA/Q/2/Add.1, Para. 94.

109. National Human Rights Commission of Thailand, *News Release on the use of restraints to the 7 students of the New Democracy Movement (NDM) group on 5 July 2016*, 9 August 2016.

110. UN Standard Minimum Rules for the Treatment of Prisoners, Rule 43(2).

111. FIDH/UCL, *Interview with former prisoner from the CWCI*, October 2016.

112. Department of Corrections regulation regarding visiting and contacting a prisoner by outsiders, and visiting and contacting a prison for affair inquiries (2012) states, "for the sake of prison management and stability, the Prison Director shall require prisoners to report a name list of outsiders who wish to visit or contact him/her in prison prior to the visit. The name list of such outsiders shall not contain more than 10 names, and if the prisoner wishes to make any changes, he/she shall be allowed to notify such changes not less than 30 days prior to the visit. In special cases, the Prison Director may allow other outsiders, apart from those notified as stipulated in the previous paragraph, to visit or contact the prisoner."

113. FIDH/UCL, *Interview with former prisoner from the CWCI*, December 2016.

114. UN Standard Minimum Rules for the Treatment of Prisoners, Rule 63.



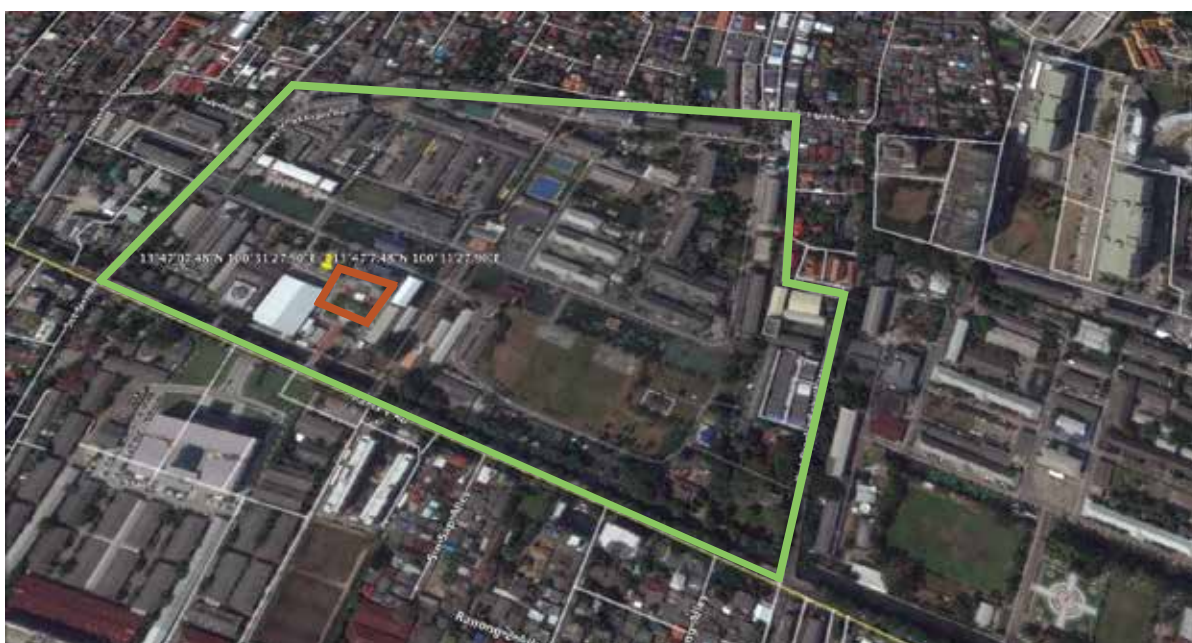
## VI. 11TH ARMY CIRCLE BASE: PRISON JUNTA-STYLE

Following the 22 May 2014 coup d'état, military authorities have arbitrarily detained hundreds of civilians at military bases across Thailand for their political affiliation and opinions, including criticism of the junta.

This disturbing trend has been raised at the international level. During Thailand's second Universal Periodic Review (UPR) between May and September 2016, the Thai government did not accept one recommendation that called for an end to the use of military barracks as detention centers for civilians.<sup>115</sup>

The use of the Nakhon Chaisri temporary detention facility inside the 11th Army Circle base in Bangkok is a glaring example of the increased use of military facilities to detain civilians since the coup. The prison lacks many guarantees that must be afforded to detainees. In addition, the lack of access for independent monitors, the two deaths in custody that have occurred at the facility, and the allegations of torture that have surfaced in the less than two years since its establishment raise concerns over the treatment of detainees held there.

On 8 September 2015, the Thai Ministry of Justice issued Order 314/2015, which announced the establishment of a temporary detention facility within the 11th Army Circle base on Rama V Road in Bangkok's Dusit District, under the jurisdiction of the Bangkok Remand Prison. The order was published in the Government Gazette on 11 September 2015. According to the order, the facility was created for "the treatment of suspects in cases concerning national security and other related special cases, whereas the suspects give rise to special circumstances and they cannot be held in custody together with other suspects."<sup>116</sup>



Satellite map showing the Nakhon Chaisri temporary detention facility inside the 11th Army Circle base in Bangkok. Source: Google Earth

115. UN Human Rights Council, 33rd session, *Report of the Working Group on the Universal Periodic Review - Thailand - Addendum - Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, 7 September 2016, UN Doc. A/HRC/33/16/Add.1, Para. 18 (Recommendation 159.37).

116. Gazette, *Ministry of Justice Order no. 314/2015, Establishment of territory of the temporary prison in Sub-District Nakhon Chaisri Road*, 11 September 2015, <http://www.ratchakitcha.soc.go.th/DATA/PDF/2558/E/215/7.PDF>

## Dozens of civilians detained

According to information obtained by Thai Lawyers for Human Rights (TLHR), 47 civilians had been detained or were currently detained at the Nakhon Chaisri temporary detention facility, as of March 2016.<sup>117</sup> Sixteen of the prisoners who had been incarcerated were detained in relation to: 1) the Erawan Shrine bombing;<sup>118</sup> 2) lèse-majesté offenses (Article 112 of the Criminal Code);<sup>119</sup> 3) the alleged plot to attack the 'Bike for Dad' event;<sup>120</sup> and 4) the Wang Burapha gun robbery case.<sup>121</sup> On 20 December 2016, military officers arrested 19-year-old Natdanai Kongdee for allegedly participating in hacking attacks on government websites and detained him at Nakhon Chaisri.<sup>122</sup> On 23 December 2016, authorities detained at least five more people at the facility in connection with the hacking attacks.<sup>123</sup> On 30 December 2016, the military handed over at least three of the alleged hackers to the police.<sup>124</sup>

On 10 November 2015, both National Council for Peace and Order (NCPO) head General Prayuth Chan-ocha and then-Justice Minister Paiboon Koomchaya said Nakhon Chaisri was not a "military prison," but a normal remand facility run by the Ministry of Justice and the Department of Corrections.<sup>125</sup> On 3 December 2015, then-Department of Corrections Director General Witthaya Suriyawong rejected accusations that Nakhon Chaisri was a military facility, and said the military personnel were "merely providing security around the premises and support in flight prevention."<sup>126</sup>

However, according to the information obtained by TLHR from March 2016, the facility has only six correctional officers while there are 80 military officials, appointed as "special correctional officers."<sup>127</sup> The Nakhon Chaisri temporary detention facility was not among the 199 prisons listed by the Department of Corrections on their website, further suggesting that Nakhon Chaisri is in fact a military detention center.

## Independent access denied

A lack of transparency surrounds the facility and access is restricted owing to its location on a military base. The Department of Corrections has repeatedly denied various independent organizations access to Nakhon Chaisri, as well as requests for information on the detention facility.

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117. Thai Lawyers for Human Rights, *A Year of Civilian Detention in a Prison on Military Base: What Do We Know about the Detainees There?*, 15 November 2016. These numbers only include detainees who are/were alleged offenders or defendants in criminal cases, and do not include people held inside the base under the Martial Law, Head of NCPO Order 3/2015, and Head of NCPO Order 13/2016.

118. Ethnic Uyghurs Adem Karadag and Yusuf Mieraili were arrested for their alleged involvement in the bombing at Bangkok's Erawan Shrine in August 2015.

119. Suriyan Sujaritpolwong (aka 'Mor Yong'), Police Major Prakrom Warunprapha, and Jirawong Watanathewasilp were detained under Article 112 of the Criminal Code (lèse-majesté) in October 2015 for citing the monarchy to obtain personal benefits.

120. Alleged members of a Khon Kaen-based 'red shirt' faction, Police Sergeant Major Prathin Chanket, Natthapol Nawanle, Wallop Boonchan, Pahiran Kongkham, Weerachai Chaboonmee, Thanakrit Thongngernperm, Chatchai Sriwongsa, and Chatchanok Sriwongsa were detained under Article 112 of the Criminal Code (lèse-majesté) for allegedly conspiring to disrupt a cycling event marking the 88th birthday of the late King Rama IX in December 2015 and overthrow the government.

121. Bangkok Post, *Top suspect unravels gun shop heist plot*, 9 March 2016. Four suspects, Zheng Yang, Sun Junwei, Li Kunpeng, and Ma Geng, were arrested in the Wang Burapha gun robbery case, an attempted robbery in Bangkok by a Chinese gang that tried to steal firearms in March 2016.

122. Prachatai, *First remand session of 'Natdanai' a hacker suspect age of 19. The court denied bail*, 28 December 2016.

123. Khaosod English, *Five Hacktivists Arrested, Junta Source Says*, 23 December 2016.

124. Khaosod English, *Military Hands Over 3 More Alleged Hackers*, 31 December 2016.

125. AFP, *Thai junta chief says military not to blame for custody death*, 10 November 2015; Prachatai, *Justice Minister on lèse majesté suspects' deaths: Suicides, deaths in prisons not uncommon*, 10 November 2015.

126. Nation, *Media inspect cells where lese majeste suspects held*, 7 December 2015; Reuters, *Thai military expands its powers with Bangkok 'black site'*, 30 December 2015.

127. Thai Lawyers for Human Rights, *A year of civilian detention in a prison on military base: What do we know about the detainees there?*, 15 November 2016.



Suspects in the Erawan shrine bombing in Bangkok last August, identified by the ruling junta as Adem Karadag (C) and Yusufu Miraili (back L), arrive at a military court in Bangkok on 16 February 2016. © Nicolas Asfour / AFP

On 30 November 2015, the Department of Corrections denied a request by Thai NGO Cross Cultural Foundation (CrCF) to visit Nakhon Chaisri.<sup>128</sup> On 8 March 2016, TLHR requested statistics on detainees and correctional officers at the facility. However, the Bangkok Remand Prison denied the request, claiming “such information may affect national security.”<sup>129</sup> After an appeal to the Committee of Government Information, on 29 July 2016, the committee ordered the Bangkok Remand Prison to reveal the requested information.<sup>130</sup> As of 16 February 2017, the Department of Corrections had failed to respond to UCL’s request to visit the facility. The National Human Rights Commission of Thailand (NHRCT) was also denied access to the facility.<sup>131</sup>

Since its establishment, the Department of Corrections has allowed only one strictly supervised visit to Nakhon Chaisri. On 3 December 2015, media professionals from several news outlets participated in a guided tour, organized by the Department of Corrections, in a bid to ease concerns over the conditions of detention and treatment of prisoners at the facility.<sup>132</sup> The journalists were restricted from taking any pictures or bringing any recording devices. Then-Department of Corrections Director General Wittthaya Suriyawong instructed reporters not to talk to the inmates, who had their backs turned towards the journalists.<sup>133</sup>

128. Bangkok Post, *HRW demands torture probe, transfer of military detainees*, 3 December 2015.

129. Thai Lawyers for Human Rights, *A Year of Civilian Detention in a Prison on Military Base: What Do We Know about the Detainees There?*, 15 November 2016.

130. Thai Lawyers for Human Rights, *A Year of Civilian Detention in a Prison on Military Base: What Do We Know about the Detainees There?*, 15 November 2016.

131. Khaosod English, *Deaths of Lese Majeste Suspects Prompt Calls for Greater Transparency*, 10 November 2015.

132. Nation, *Media tour cells where lese majeste suspects were detained*, 6 December 2015.

133. Khaosod English, *Reporters Tour Controversial Military Prison Where 2 Died*, 4 December 2015; Nation, *Media tour cells where lese majeste suspects were detained*, 6 December 2015.



At the time of the visit, five cells were in operation and housed prisoners. The cells shown to the journalists during the guided tour were located in different parts of the building, and measured approximately 10m<sup>2</sup>. They were lit by fluorescent bulbs and contained one ceiling fan in the middle of the room. Inside the cells, prisoners had a mattress, a pillow, a blanket, a small table, a set of drawers, a water table, a water glass, and books. There was a toilet and shower inside each room, just outside the cell, but with no door.<sup>134</sup> However, there is no guarantee that the prison conditions witnessed by the journalists during the tour were the actual conditions in which the prisoners have been detained. Media reported seeing an additional six cells under construction.<sup>135</sup>

## Two deaths within two weeks

Within less than two months of its establishment, two prisoners charged with lèse-majesté died at Nakhon Chaisri.

On 24 October 2015, then-Department of Corrections Director General Witthaya Suriyawong announced that Police Major Prakrom Warunprapha, who had been detained under Article 112 of the Criminal Code on 21 October,<sup>136</sup> had hanged himself in his cell the previous day.<sup>137</sup> Then-Justice Minister Paiboon Koomchaya said police had completed an autopsy of Prakrom, and that the case was “over, because the family already picked up the body.”<sup>138</sup>

On 9 November 2015, Thai authorities announced that Suriyan Sucharitpolwong (aka ‘Mor Yong’), who had been remanded in the same case on 21 October,<sup>139</sup> had died from circulation and respiratory failure set off by septicemia on 7 November, just hours after he was found unconscious in his cell.<sup>140</sup> Authorities said Suriyan had experienced health difficulties in the days leading up to his death.<sup>141</sup>

In both cases, then-Justice Minister Paiboon Koomchaya announced just days after their deaths that the autopsies had already been carried out.<sup>142</sup> The bodies of both men were quickly returned to their families and their remains were cremated within days of their deaths.<sup>143</sup> No independent investigation was launched to probe the deaths.

The men’s deaths sparked further concerns by human rights groups over the conditions inside Nakhon Chaisri and allegations of torture within the facility.<sup>144</sup>

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134. Komchadluek, *Open Military Circle answers questions regarding 112 prisoners*, 4 December 2015; Nation, *Media tour cells where lese majeste suspects were detained*, 6 December 2015.

135. Reuters, *Thai military expands its powers with Bangkok ‘black site’*, 30 December 2015.

136. Nation, *Trio confess*, 22 October 2015.

137. Nation, *Lese majeste suspect dies after hanging himself in detention cell*, 24 October 2015.

138. Khaosod English, *Further autopsy of lese majeste inmate unnecessary, Minister says*, 26 October 2015.

139. Nation, *Trio confess*, 22 October 2015.

140. AFP, *Thai junta chief says military not to blame for custody death*, 10 November 2015; Prachatai, *Justice Minister on lese majeste suspects’ deaths: Suicides, deaths in prisons not uncommon*, 10 November 2015.

141. BBC, *Second Thailand lese majeste detainee dies in military custody*, 9 November 2015.

142. Khaosod English, *Further autopsy of lese majeste inmate unnecessary, Minister says*, 26 October 2015; Khaosod English, *Famous astrologer ‘Mor Yong’ dies in custody*, 9 November 2015.

143. Bangkok Post, *Cops trace lese-majeste suspects to graft network*, 27 October 2015; Bangkok Post, *Lese majeste suspect ‘Mor Yong’ dies in army custody*, 10 November 2015.

144. ICJ/HRW, *Joint Letter to Permanent Mission of Thailand to the UN*, 24 November 2015; UCL/Cross Cultural Foundation/Thai Lawyers for Human Rights/Human Rights Lawyers Association/EnLaw Foundation/Community Resource Centre Foundation, *Human Rights organizations’ opinion on the administration of justice in case of Mr. Suriyan Sucharitpolwong and Police Major Prakrom Warunprapha*, 28 October 2015.

On 24 November 2015, the Southeast Asia Office of the United Nations High Commissioner for Human Rights (OHCHR) called for the immediate closure of Nakhon Chaisri and an independent investigation into the two deaths in custody.<sup>145</sup>

On 9 December 2015, Thai anti-coup group Resistant Citizen filed a petition to the Administrative Court to seek the revocation of Order no. 314/2015 on the basis that it lacked clarity and violated the Administrative Procedure Act and the principle of equality stipulated by Thailand's interim constitution.<sup>146</sup>

On 3 November 2016, the Administrative Court accepted to review the case.<sup>147</sup>

## Torture, ill-treatment of inmates feared

Statements made by authorities suggest prisoners at Nakhon Chaisri may be subjected to frequent or prolonged interrogation and other acts that could amount to cruel, inhuman, or degrading treatment. On 3 December 2015, then-Department of Corrections Director General Witthaya Suriyawong said the facility was needed to allow investigators easier and longer access to detainees.<sup>148</sup> Lawyers of detainees at Nakhon Chaisri have attested that soldiers appeared to be heavily involved in interrogations.<sup>149</sup> In addition, Witthaya confirmed that in order to prevent escapes, detainees were blindfolded and shackled when they were moved around the base.<sup>150</sup> Suspects have also been held incommunicado for several days at the facility.<sup>151</sup>

Inmates held at Nakhon Chaisri have alleged that they were tortured at the facility. Despite denying allegations of torture and ill-treatment of inmates at Nakhon Chaisri, Thai authorities have failed to conduct thorough, impartial, and credible investigations into such claims.

Chuchart Kanpai, the lawyer of Adem Karadag (aka Bilal Mohammed), one of the alleged bombers at Bangkok's Erawan Shrine in August 2015, claimed that Adem had been tortured into making a confession at Nakhon Chaisri.<sup>152</sup> On 17 May 2016, during a court hearing, Adem claimed that authorities had tortured him at the facility.<sup>153</sup>

A lawyer of a prisoner detained at Nakhon Chaisri said five fully armed military officers escorted the client blindfolded, handcuffed, and leg cuffed to the visiting area. During the visit, which lasted almost six hours, military officers wrote down everything they said. The lawyer said, "*[My client] told me that he was beaten by the officers. As soon as he said that, one of the military officers went out to call the chief. [My client] pointed at one of the translators, who [he said] had poured the water into his nose, and said 'you forget, I remember.'*"<sup>154</sup>

In an interview with FIDH/UCL, a lawyer of a detainee at Nakhon Chaisri said, "*It's like they have their own laws in there – laws that are the chief's orders. They detained me and I asked why [they detained me]. The only*

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145. UNOHCHR, *OHCHR calls for Thailand to stop civilian detentions in military barracks*, 24 November 2015.

146. Thai Lawyers for Human Rights, *Revealed! Lawsuit asks to revoke order establishing a temporary detention center at the 11th Military Circle*, 9 December 2015, <https://tlhr2014.wordpress.com/2015/12/09/stop-mtb11-2/>

147. Thai Lawyers for Human Rights, *A Year of Civilian Detention in a Prison on Military Base: What Do We Know about the Detainees There?*, 15 November 2016.

148. Reuters, *Thai military expands its powers with Bangkok 'black site'*, 30 December 2015.

149. Reuters, *Thai military expands its powers with Bangkok 'black site'*, 30 December 2015.

150. Reuters, *Thai military expands its powers with Bangkok 'black site'*, 30 December 2015.

151. Prachatai, *Junta sues lawyer of Bike for Dad plot suspect*, 9 December 2015.

152. Reuters, *Chinese Uighur was tortured into confessing role in Bangkok bomb: lawyer*, 15 February 2016.

153. Reuters, *Thailand bomb suspect breaks down, tells media, "I'm not an animal"*, 17 May 2016.

154. FIDH/UCL, *Interview with lawyer of prisoner detained at the Nakhon Chaisri temporary detention facility*, 23 November 2016.

*answer I got was that it was the chief's orders and that was the end of the discussion."*<sup>155</sup>

The lawyer also said that detainees at the Nakhon Chaisri detention facility faced harsh conditions and poor treatment. The lawyer said that the client was escorted, blindfolded, and shackled by armed military officers to their meeting at the facility. Three to four military officers were present during the lawyer's conversation with the client and listened to their entire conversation. The lawyer also said that the client had been subjected to solitary confinement at Nakhon Chaisri: *"[My client] told me about the solitary confinement and that the air to breathe came in through the gap between the door and the floor. [He] would spend his days in the dark in that room on his own with no activities and receive food when it was time and come out solely when his family or lawyer came to visit."*<sup>156</sup>

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155. FIDH/UCL, *Interview with lawyer of prisoner detained at the Nakhon Chaisri temporary detention facility*, 24 November 2016.

156. FIDH/UCL, *Interview with lawyer of prisoner detained at the Nakhon Chaisri temporary detention facility*, 24 November 2016.

# VII. RECOMMENDATIONS

## Recommendations to the Thai government

1. Address and resolve the issue of overcrowding in prisons by finding sustainable and effective measures to reduce the prison population. Such measures could include: rehabilitation for drug-related offenses; the imposition of fines for first-time offenders, when there is discretion in imposing fines and/or prison time; the granting of bail to people awaiting trial for certain categories of crimes, including lèse-majesté, or when necessary, the use of home detention coupled with electronic monitoring devices to prevent flight; and repatriation for foreign prisoners.
2. Increase the use of alternatives to prison sentences, by developing non-custodial measures within the legal system in line with the United Nations (UN) Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), including measures aimed at: the avoidance of pre-trial or remand detention; alternatives to prison terms during sentencing; and post-sentencing alternatives that assist prisoners' reintegration into society.<sup>157</sup>
3. Ensure that when pre-trial or remand detention is used, it is for as short a period as possible, and that bail bonds are not unduly onerous and are proportionate to the offense.
4. Amend legislation to ensure that where prison sentences are required, the penalties are proportionate to the crime committed, such as crimes related to drug production and drug trafficking.
5. Impose mandatory rehabilitation, as a preferred method of treatment to prison terms, for drug users and drug addicts, and for those convicted of drug use or drug consumption.
6. Explore the possibility of introducing the use of early release procedures, such as parole and conditional release.
7. Improve living conditions in prisons to be in line with the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), particularly with regard to the amount of space allocated per prisoner, sanitation facilities, and the availability of adequate healthcare.
8. Improve conditions for women in prison in line with the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), by acknowledging the specific needs of women in prison and ensuring they have adequate medical care and facilities, especially in the case of pregnant women and women with young children.
9. Ensure that the provisions of the new Penitentiary Act are swiftly and effectively implemented and that new ministerial regulations adopted under the act are in accordance with international standards.
10. End the use of the Nakhon Chaisri temporary detention facility inside the 11th Army Circle base as a place of detention for civilians and transfer all civilians currently detained there to other prisons.
11. Allow independent inspection bodies, including the National Human Rights Commission of Thailand (NHRCT) and the Ombudsman, unfettered access to all prisons including the Nakhon Chaisri

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157. The UN Standard Minimum Rules for Non-custodial Measures provide a set of basic principles to promote the use of non-custodial measures, as well as minimum safeguards for persons subject to alternatives to imprisonment.

temporary detention facility, in line with commitments made by Thailand during its second Universal Periodic Review (UPR).

12. Allow non-governmental organizations with a relevant mandate to conduct visits to places of detention, interview inmates, and assess conditions without undue hindrance.
13. Arrange a country visit for the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
14. Conduct a thorough and independent investigation into the two cases of custodial deaths and all allegations of torture and ill-treatment at the Nakhon Chaisri temporary detention facility.
15. Maintain and make publicly available up-to-date information and statistics on the total prison population (disaggregated by sex, age, prison length, and type of offense); the number of prison facilities; the official capacity of the penitentiary system; and the number prison officers and medical staff.

## **Recommendations to the National Human Rights Commission of Thailand**

1. Request and perform periodic visits to all prisons under the Ministry of Justice, including the Nakhon Chaisri temporary detention facility inside the 11th Army Circle base, to assess conditions.
2. Conduct a thorough and independent investigation into the two cases of custodial deaths and all allegations of torture and ill-treatment at the Nakhon Chaisri temporary detention facility.
3. Assess conditions in all prisons under the Ministry of Justice and demand the ministry bring conditions of detention in line with international standards.
4. Ensure that all complaints made about the prison system are investigated and resolved promptly and with appropriate remedies.
5. Provide information on recent visits to prison facilities and regular updates on issues raised during visits.

## **Recommendations to the international community**

1. Urge the Thai government to address and resolve the issue of overcrowding in prisons by finding sustainable and effective measures to reduce the prison population.
2. Urge the Thai government to improve living conditions in prisons to be in line with the UN Standard Minimum Rules for the Treatment of Prisoners and the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, particularly with regard to the amount of space allocated per prisoner, sanitation facilities, and the availability of adequate healthcare.
3. Urge the Thai government to end the use of the Nakhon Chaisri temporary detention facility inside the 11th Army Circle base as a place of detention for civilians and transfer all civilians currently detained there to other prisons.
4. Urge the Thai government to honor commitments made during its second UPR, including granting the NHRCT and the Ombudsman unfettered access to all prisons.

## VIII. APPENDIXES

The tables in Appendixes I and II were compiled based on the list of 168 prisons for which official capacity data was provided to FIDH/UCL by the Department of Corrections.<sup>158</sup>

### Appendix I: Top 20 Thai prisons by population

	Prison	Men	Women	Total
1	Bangkok Central Correctional Institution for Drug Addicts	8535	0	8535
2	Bangkok Klong Prem Central Prison	5855	0	5855
3	Bangkok Thonburi Remand Prison	5618	0	5618
4	Rayong Central Prison	4308	844	5152
5	Nakhon Sri Thammarat Central Prison	4215	565	4780
6	Bangkok - Central Women's Correctional Institution	0	4522	4522
7	Chonburi Central Prison	4415	0	4415
8	Bangkok - Minburi Remand Prison	3635	717	4352
9	Nonthaburi Bang Kwang Central Prison	4229	0	4229
10	Chiang Mai Central Prison	4191	0	4191
11	Chonburi Pattaya Remand Prison	3598	587	4185
12	Nakhon Pathom Central Prison	3662	516	4178
13	Ratchaburi Central Prison	3387	713	4100
14	Nakhon Ratchasima Klong Phai Central Prison	3915	0	3915
15	Ratchaburi Khaobin Central Prison	3851	0	3851
16	Samut Prakan Central Prison	3068	747	3815
17	Chiang Rai Central Prison	3019	768	3787
18	Ubon Ratchathani Central Prison	327	413	3683
19	Phra Nakhon Sri Ayutthaya Provincial Prison	3083	472	3555
20	Pathum Thani Central Correctional Institution for Drug Addicts	3542	0	3542

158. Official capacity data provided to FIDH/UCL in January 2017 and based on a space of 2.25m<sup>2</sup> per person. Population figures from January 2017.

## Appendix II: Top 20 Thai prisons by occupancy level

	Prison	Population	Official capacity	Occupancy level (%)
1	Bueng Kan Provincial Prison	1198	233	514.2
2	Phang Nga Provincial Prison	724	142	509.9
3	Sa Kaew Provincial Prison	1927	421	457.7
4	Phra Nakhon Sri Ayutthaya Provincial Prison	3555	804	442.2
5	Nakhon Nayok Provincial Prison	1014	241	420.7
6	Kalasin Provincial Prison	2095	504	415.7
7	Surat Thani - Koh Samui District Prison	803	196	409.7
8	Phuket Provincial Prison	2308	566	407.8
9	Krabi Provincial Prison	1910	470	406.4
10	Songkhla Provincial Prison	2315	594	389.7
11	Trang Provincial Prison	2125	548	387.8
12	Naan Provincial Prison	1045	270	387.0
13	Khon Kaen - Phon District Prison	1084	288	376.4
14	Prachin Buri - Kabin Buri District Prison	742	207	358.5
15	Narathiwat Provincial Prison	1907	533	357.8
16	Nong Bua Lam Phu Provincial Prison	1601	449	356.6
17	Bangkok - Central Correctional Institution for Drug Addicts	8535	2442	349.5
18	Sisaket- Kantharalak District Prison	1232	356	346.1
19	Nakhon Sri Thammarat - Thung Song District Prison	1575	458	343.9
20	Kanchanaburi Provincial Prison	2944	876	336.1







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