



**NHRCT supports the Parliament to speedily enact the Bill on Prevention of Torture and Enforced Disappearance, emphasizing the compliance with international standards, protection of the rights of persons in custody, and transparent prosecution of perpetrators**

Ms. Pornprapai Ganjanarintr, Chairperson of the National Human Rights Commission of Thailand (NHRCT), issued the most urgent letter No. 0006/74 dated 7 September B.E. 2564 (2021) to the President of the National Assembly to notify the NHRCT's recommendations to the draft Bill on Prevention and Suppression of Torture and Enforced Disappearance, B.E. ...., which is currently considered by the National Assembly. The letter referred to an online public forum organized by the NHRCT on 2 September 2021 to discuss the prevention and suppression of torture including legal measures, where members of the House of Representatives, Senators, academics, representatives from human rights organizations and relevant government agencies participated.

The NHRCT compiles opinions of the forum and takes into consideration the fundamental right to life and the right to person integrity as guaranteed by the Constitution of the Kingdom of Thailand, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the International Convention for the Protection of All Persons from Enforced Disappearance (CED). The NHRCT; therefore, has proposed recommendations which can be summarized as follows:

**1. Fundamental principles which should be contained therein:** There should be a provision prescribing the absolute and non-derogable right that no one shall be subjected to torture or enforced disappearance even under any exceptional circumstances, including any other cruel, inhuman, or degrading treatment or punishment. The law should also provide measures to prevent the repetition of torture or enforced disappearance by prosecuting the offender(s) without interference. In addition, the law should provide for the protection of rights of all persons under any form of detention or imprisonment, such as the right to communication with the outside world, in particular their relatives, the right to legal counsel present during questioning. The adequate physical and mental compensation for victims of torture or enforced disappearance should also be prescribed.

**2. Standards of practice for government officials to comply with:** The law should require a duly and effective video and audio recording at all times, particularly at the moment of arrest and

at the commencement of detention, at time of investigation and during detention. There should be the adequacy of storage system of such records for future verification to ensure fairness to all parties. Furthermore, it should also require that the arrest or search warrant by government officials must be approved by a public prosecutor whose role should involve from the outset of arrest or detention.

**3. Court proceedings for cases of torture and enforced disappearance:** The law should clearly state the rule of non-admission of evidence in court proceedings obtained by torture or enforced disappearance. This is to inform government officials that the reasons of national security, drug suppression, effective investigation of serious crimes or any other purpose cannot justify the acquisition of evidence from torture or enforced disappearance. The burden of proof must rest on the accused who is government official. In addition, it must be compulsory that the act of torture or enforce disappearance by government official(s) must be brought before the Criminal Court or the Court of Justice, and the offense should have no statute of limitations.

**4. The Committee for the prevention and suppression of torture and enforced disappearance as established by the law:** Member(s) of the Committee must not belong to the government agency of the accused. The principle role of the Committee is to find facts, collect evidences and opinions and submit them to the Criminal Court or the Court of Justice. In addition, representative of victims of torture and enforced disappearance cases should be appointed as expert member.

Office of the National Human Rights Commission of Thailand

8 September 2021