



icj

International
Commission
of Jurists



www.hrw.org



Thailand: Alleged Torture Victim Denied Redress Ruling Raises Questions about Thais' Protection against Torture

(Bangkok, 13 October 2014) – The Royal Thai Government should comply with its international human rights obligations to provide remedies and reparation to victims of torture or other ill-treatment, the International Commission of Jurists (ICJ), Human Rights Watch and Amnesty International said today.

On 7 October 2014, the Pattani Provincial Court in the country's restive 'deep South' ruled that Hasan Useng, an alleged victim of torture or other ill-treatment, was not entitled to judicial remedies and reparation as his claim had been made under Article 32 of Thailand's 2007 Constitution, which the National Council for Peace and Order (NCPO) terminated after the military staged a coup on 22 May 2014.

A petition filed by Hasan Useng's sister on 2 May 2014, before the 2007 Constitution was abrogated by the military, alleged that on 13 April 2014, police and military personnel detained Hasan Useng and searched his house in Narathiwat province. He was then taken to the Inkhayuthaborihan Military Camp in Pattani province where military personnel allegedly kicked him and ordered him to do several hundred push-ups and jumping jacks on the hot concrete in his bare feet.

“This ruling is inconsistent with Thailand's obligations under international law to prohibit torture or other ill-treatment and to provide victims with effective remedies and adequate reparation,” said Ian Seiderman, the ICJ's Legal and Policy Director. “The effect of the Court's ruling flies in the face Thailand's international legal obligation to ensure access to an effective remedy for torture or other ill-treatment at all times and in all places, even under Martial Law.”

On 31 July 2014, the ICJ filed an *amicus curiae* (“friend of the court”) [submission](#) to the Court (see links to submission below), in which it argued that the repeal of the 2007 Constitution did not affect the obligation of the Thai Government to provide reparation and remedies for torture or other ill-treatment under international human rights law including the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Thailand is a party to both the ICCPR and CAT.

The Judge in his oral judgment made no reference to Thailand's international legal obligations. He also did not refer to Article 4 of the country's currently governing interim Constitution, which recognizes Thailand's international human rights obligations, including under the ICCPR and CAT. A written decision is scheduled to be delivered on 13 October 2014.

The Muslim Attorney Centre (MAC), which is representing Hasan Useng's sister, has indicated that she will appeal the decision to Thailand's Court of Appeal. The Muslim Attorney Centre was founded by a group of Muslim lawyers in February 2007 to provide free legal aid to disadvantaged people in the four southernmost provinces of Thailand.

"The Hasan Useng decision highlights the concrete damage to human rights protections in Thailand resulting from the military coup, and the fact that it is now virtually impossible to hold security forces legally accountable for their actions," said Brad Adams, Asia Director at Human Rights Watch. "While this case only addresses the claim of one individual, the effect of the Court's ruling is to deny the applicability of international human rights law to Thailand, and suggests that Thais have no legal protection from torture."

The decision of the Pattani Provincial Court is also inconsistent with the Thai Government's repeated commitments to respect and implement the Convention Against Torture in Thailand, made most recently in the Government's presentation before the Committee Against Torture in Geneva on 1 May 2014.

In its Concluding Observations, the Committee Against Torture urged Thailand to take effective measures to ensure, in law and in practice, that all detainees are afforded all fundamental legal safeguards from the very outset of their detention. These include the availability of judicial and other remedies to detainees and persons at risk of torture and ill-treatment that would allow them to have their complaints promptly and impartially examined, to defend their rights and to challenge the legality of their detention or ill-treatment.

"Thailand's international human rights obligations remain in place, including some such as the prohibition of torture that apply fully at all times, irrespective of political conditions or Martial Law," said Richard Bennett, Director of Amnesty International's Asia Pacific Program. "Thailand must also act to comply with these obligations by lifting sweeping restrictions on other rights imposed since the coup, including on freedom of expression and peaceful assembly."

A copy of the ICJ's *amicus curiae* submission can be found here:

English: <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2014/10/Thailand-Amicus-Hasan-Useng-Advocacy-legal-sumission-2014-ENG.pdf>

Thai: <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2014/10/Thailand-Amicus-Hasan-Useng-Advocacy-legal-submission-2014-thai.pdf>

Contacts:

Sam Zarifi, ICJ's Regional Director for Asia and the Pacific, in Bangkok: t +66-807-819-002 (mobile); sam.zarifi(a)icj.org. Follow on Twitter @SZarifi

Richard Bennett, AI's Regional Director for Asia and the Pacific, c/o AI Press office in London contact Phone: +44 (0) 20 7413 5566; +44 (0) 7778 472 126 – 24 hours; email press@amnesty.org

Brad Adams, Asia Director, Human Rights Watch, +1-347-463-3531 (mobile); or adamsb@hrw.org. Follow on Twitter @BradAdamsHRW