

An Open Letter to the Prime Minister of Thailand

Thailand: Chaining of wounded detainees under Emergency Decree

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An Open Letter to the Prime Minister of Thailand by the Asian Human Rights Commission (AHRC)

Abhisit Vejjajiva
Prime Minister
c/o Government House
Pitsanulok Road, Dusit District
Bangkok 10300
THAILAND

Fax: +66 2 288 4000 ext. 4025
Tel: +66 2 288 4000
E-mail: spokesman@thaigov.go.th or abhisit@abhisit.org

Dear Mr. Abhisit

THAILAND: Chaining of wounded detainees under Emergency Decree

The Asian Human Rights Commission (AHRC) is writing to you regarding the treatment of detainees under the state of emergency that your government has imposed in Bangkok and other provinces of Thailand in response to protests that gripped the capital in recent months.

The AHRC has numerous grave concerns regarding circumstances of arrest and detention under the state of emergency imposed via the Emergency Decree BE 2548 (2005), which the AHRC strongly opposed from the time of its introduction under the government of your predecessor, Pol. Lt. Col. Thaksin Shinawatra.

One of these concerns relates to the highly problematic provision that detainees under the decree not be held in official places of detention by virtue of their peculiar legal status as persons under custody but not charged with any offences. According to information currently available through various sources, among detainees being held in non-official detention facilities are persons who were wounded during the protests, who are being held in separate wards in medical facilities, and who are allegedly being chained to their beds.

Two cases reported in the media in recent days were of Mr. Jaran Loiphun (age 39) and Mr. Nattapon Thongkhun (age 20), of Bangkok, both of whom were shot during the military crackdown on the Ratchaprasong protest.

Nattapon was reportedly shot three times in front of the Lumpini Police Station on 14 May 2010. According to Nattapon, around noon on 14 May he and his friends were driving motorbikes from Petchburi Road to meet friends at Sathorn Road. When they reached the area in front of Lumpini Police Station, a group of protestors were burning a police bus on Wireless Road. When soldiers shot into the group of protestors, a shotgun blast went into his shoulder, and an M16 bullet went into his hand. He tried to get up to ask for help, but another shotgun blast hit his left leg. The protestors brought him to the Police Hospital. Nattapon explained that one day after that, as he was coming out of anaesthesia following surgery, police came to interrogate him. They accused him of violating the Emergency Decree. He was moved from a bed for ordinary people to a room for people facing accusations; there was another injured protestor in the room with him. He has since been shackled to his bed, guarded by police officers and allowed only short visits from family.

Jaran was reportedly shot twice at Pratunam intersection on 19 May 2010. The first shot was from a shotgun and was embedded in his left leg. The second bullet was from an M16 and went through his hand. According to Jaran, on the afternoon of 19 May, he was walking towards the area of Pratunam intersection. He saw a group of 4-5 soldiers walking about 20 metres in front of him. He was afraid and so he began to run away. But this group of soldiers shot at him. Jaran said that after he was hit by the shotgun he tried to get up and run again and the soldiers shot him with the M16. Jaran has also reportedly been shackled to the hospital bed, and he is being guarded by police officers.

For many years, the AHRC and other concerned organisations and individuals have voiced outrage at the shackling and otherwise barbaric treatment of accused criminal prisoners in Thailand. In the aftermath of the crackdown on the protests, there are also many reports of persons detained under the Emergency Decree in ambiguous and uncertain circumstances being similarly ill-treated.

As Thailand is now a member of the UN Human Rights Council, it should not be necessary for the AHRC to remind your government of its obligations under international law; however, in light of the many reports of the sort cited above in recent days, we draw your attention to the UN Standard Minimum Rules for the Treatment of Prisoners, under Rule 33 of which “chains or irons shall not be used as restraints” and other instruments of restraint shall be used only during a transfer of detainees as a precaution against escape, on medical grounds by order of a medical officer, or as a means to prevent self harm. Clearly, none of these circumstances apply in the cases described above.

The government of Thailand should be further aware that under the UN Convention against Torture, to which it is a party, the chaining of wounded detainees could constitute an act of cruel, inhuman or degrading treatment or punishment that would place it in clear violation of its responsibilities under international law.

Aside from being uncomfortable and humiliating for the persons in custody, this type of maltreatment engenders other types of abuse, and an attitude of contempt towards detainees among security personnel. In its most extreme form, it results in the handling of detainees as mere objects rather than human beings at all, leading to events such as the mass deaths in military trucks of persons in Narathiwat after the protests outside the Tak Bai Police Station of 2004. For this reason, all types of chaining and custodial maltreatment that are either explicitly endorsed through law or tacitly encouraged through routine practices are worthy of strong condemnation.

Accordingly, the Asian Human Rights Commission urges your government to ensure that all persons detained under the Emergency Decree are treated with human dignity and respect and specifically that wounded persons held under the decree are not chained or otherwise restrained while receiving treatment in hospital.

The AHRC also takes this opportunity to call for a full accounting of persons being held under the decree, for the prompt bringing of charges or release of all these persons, for all of these persons to be guaranteed their civil rights, including their rights of access to lawyers and family members, and to be guaranteed their rights to be free from torture and other forms of human rights abuse. Finally, we again call upon your government to lift the state of emergency without any further delay and return your country to the rule of law rather than rule by decree and the de facto military administration under which it has been placed in recent weeks.

Yours sincerely

Basil Fernando
Director
Asian Human Rights Commission, Hong Kong

Cc:

1. Mr. Chaowarat Chanweerakul, Minister of Interior, Thailand
2. Mr. Peeraphan Saleeratwipak, Minister of Justice, Thailand
3. Mr. Kasit Piromya, Minister of Foreign Affairs, Thailand
4. Homayoun Alizadeh, Regional Representative, OHCHR, Bangkok, Thailand
5. UN Working Group on Arbitrary Detention
6. UN Special Rapporteur on the question of torture

P.S.

* Asian Human Rights Commission
19/F, Go-Up Commercial Building,
998 Canton Road, Kowloon, Hongkong S.A.R.
Tel: +(852) - 2698-6339 Fax: +(852) - 2698-6367