



**FIDH – International Federation for Human Rights**

Committee on the Elimination of Discrimination against Women (CEDAW)

**Submission for the 85th Pre-Sessional Working Group  
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3 October 2022

**Women human rights defenders under increasing attack**

Women human rights defenders (WHRDs) continue to be subjected to attacks, violence, intimidation, threats, and other acts of harassment by both state and non-state actors for their human rights work and the legitimate exercise of their rights to freedom of expression and freedom of peaceful assembly.

Women who played a key role in organizing and leading peaceful pro-democracy protests in 2020 faced frequent human rights violations aimed at delegitimizing their work and credibility and discouraging them from participating in the demonstrations.<sup>1</sup>

Thai authorities actively engaged in repeated attacks against WHRDs, including youth under the age of 18, for their participation in the nationwide protests through the use of repressive laws and decrees that do not conform to international standards. These included the Emergency Decree,<sup>2</sup> the Computer Crimes Act, the Public Assembly Act, and Articles 112 (“lèse-majesté,” or “royal defamation”) and 116 (“sedition”) of Thailand’s Criminal Code. FIDH documented the prosecution of 13 WHRDs, including one minor, in relation to their participation in the protests. Some of these 13 WHRDs currently face 10 or more criminal cases.<sup>3</sup> One of them, Panusaya Sitijirawattanakul faces eight charges of lèse-majesté, and could be sentenced to a total of 120 years in prison.<sup>4</sup> In 2021-2022, five more WHRDs have faced prosecution in connection with their human rights work: four

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<sup>1</sup> FIDH, *Thailand: Women Pro-Democracy Activists Criminalized, Harassed, New Report Shows*, 3 February 2021

<sup>2</sup> On 25 March 2020, the Thai government declared a State of Emergency pursuant to Article 5 of the 2005 Emergency Decree on Public Administration in the State of Emergency (“Emergency Decree”) in an effort to control the spread of COVID-19. Article 9 of the Emergency Decree prohibits public assemblies and the dissemination of online information that is “false” or capable of instigating fear among the public. Under Article 18, violations of measures under the Emergency Decree carry penalties of up to two years’ imprisonment or a fine of up to 40,000 Baht (US\$1,225). The State of Emergency was renewed numerous times, with the last extension valid until 30 September 2022.

<sup>3</sup> FIDH, *Thailand: Women Pro-Democracy Activists Criminalized, Harassed, New Report Shows*, 3 February 2021

<sup>4</sup> FIDH, *New wave of lèse-majesté could result in jail sentences totaling 100+ years, report warns*, 5 October 2022

pro-democracy activists under Article 112 of the Criminal Code,<sup>5</sup> and a family member of a victim of enforced disappearance under the Emergency Decree.<sup>6</sup>

Other abuses were gender-specific: WHRDs reported attacks by state actors, which mostly took the form of verbal abuse and harassment directly aimed at them simply because of their gender and/or their gender expression. This often overlapped with their experience of online attacks and harassment by non-state actors.<sup>7</sup>

WHRDs have also been targeted and harassed by non-state actors. For example, between 2016 and 2020, the Thai poultry company Thammakaset filed criminal defamation complaints against seven WHRDs, including NGOs workers, a human rights expert, an academic, and a journalist.<sup>8</sup>

- Please provide information about the steps the government has taken to ensure the protection of women human rights defenders (WHRDs) from attacks, violence, intimidation, threats, and other acts of harassment, including online, and to hold the perpetrators responsible.
- Please explain how the systematic use of criminal prosecutions against WHRDs is consistent with Thailand's obligations under Article 3 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
- Please provide detailed information and statistics about the effectiveness of measures adopted to ensure the protection of WHRDs against judicial harassment, particularly through the use of Strategic Lawsuits Against Public Participation (SLAPP).

### **Prison conditions for women remain sub-standard**

Thailand has one of the world's highest rates of incarceration for women. According to the most recent comparative global figures available in 2018, only the United States (US) had a higher incarceration rate for women.<sup>9</sup>

The number of prisoners incarcerated in Thai prisons for drug-related offences continues to account for the overwhelming majority of the prison population and has a disproportionate impact on women.<sup>10</sup> As of September 2022, 24,873 women (or 79% of the female prison population) were

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<sup>5</sup> FIDH, *Thailand: Arbitrary detention of pro-democracy activist Benja Apan*, 12 October 2021; <https://www.fidh.org/en/issues/human-rights-defenders/thailand-arbitrary-detention-of-pro-democracy-activist-benja-apan>;

FIDH, *Thailand: Arbitrary detention and judicial harassment of Tantawan Tuatulanon*, 22 April 2022; <https://www.fidh.org/en/issues/human-rights-defenders/thailand-arbitrary-detention-and-judicial-harassment-of-tantawan>;

FIDH, *Thailand: Deteriorating health and arbitrary detention of two pro-democracy activists*, 7 July 2022; <https://www.fidh.org/en/issues/human-rights-defenders/thailand-deteriorating-health-and-arbitrary-detention-of-two-pro>

<sup>6</sup> FIDH, *Thailand: Judicial harassment of Sitanan Satsaksit*, 25 October 2021; <https://www.fidh.org/en/issues/human-rights-defenders/thailand-judicial-harassment-of-sitanan-satsaksit>

<sup>7</sup> FIDH, *Thailand: Women Pro-Democracy Activists Criminalized, Harassed, New Report Shows*, 3 February 2021

<sup>8</sup> FIDH, *Thailand: Thammakaset watch*, September 2022; <https://www.fidh.org/en/issues/human-rights-defenders/thailand-thammakaset-watch#ancre2>

<sup>9</sup> Prison Policy Initiative, *States of Women's Incarceration: The Global Context 2018*, June 2018; <https://www.prisonpolicy.org/global/women/2018.html>

<sup>10</sup> Department of Corrections, *Statistics of incarcerated for drug-related offences nationwide*, 1 September 2022; [http://www.correct.go.th/rt103pdf/report\\_result.php?date=2022-09-01&report=drug](http://www.correct.go.th/rt103pdf/report_result.php?date=2022-09-01&report=drug)

incarcerated for drug-related offenses, higher than the 70% of the male prison population incarcerated for such crimes.<sup>11</sup>

Conditions for women in prisons across Thailand remain well below international standards. In 2019, FIDH and its member organization Union for Civil Liberty (UCL) documented how conditions in most of Thailand's so-called "model" prisons<sup>12</sup> did not conform to international standards.<sup>13</sup> The main issue of concern was overcrowding. Other important areas, where deficiencies and challenges were observed, were: special arrangements for pregnant prisoners and prisoners with babies; the water and sanitation situation, and hygiene issues, including shortage of sanitary pads and other toiletries in many prisons.<sup>14</sup>

Interviews conducted by FIDH and UCL with recently released female prisoners in 2021 confirmed that women in Thai prisons continued to suffer from poor detention conditions that disproportionately affected them, particularly with regard to healthcare services. In addition to the deprivation of basic sanitation products, all interviewed former female prisoners reported the lack of availability of necessities for their specific hygiene needs, especially sanitary pads and underwear, which seriously undermined their dignity and their right to health.

In 2020-2021, the specific challenges faced by women in prison were exacerbated by the spread of COVID-19 in correctional facilities across the country. For example, most female prisoners had to buy more sanitary pads at the prison shop at higher prices than outside the prison, or receive them through visiting family members. However, as a result of the COVID-19 restrictions, more women did not have sanitary pads and other essential items because in-person visits as well as donations were suspended to mitigate the risk of infection.<sup>15</sup>

In June 2022, a detained female pro-democracy activist, who had been on a prolonged hunger strike to protest her arbitrary detention, reported facing threats and verbal harassment by a male volunteer doctor. She and a fellow detained activist were denied requests to receive medical treatment in a public hospital outside prison despite their deteriorating health.<sup>16</sup>

- What steps has the government taken to improve prison conditions for women in accordance with international standards?
- What steps has the governments taken to mitigate the impact of COVID-19 related restrictions on the physical and psychological well-being of female prisoners?

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<sup>11</sup> Department of Corrections, Statistics of incarcerated for drug-related offences nationwide, 1 September 2022; [http://www.correct.go.th/rt103pdf/report\\_result.php?date=2022-09-01&report=drug](http://www.correct.go.th/rt103pdf/report_result.php?date=2022-09-01&report=drug)

<sup>12</sup> The designation of "model" prisons is awarded by Thailand's Department of Corrections, based on its claim that such facilities have successfully implemented the United Nations (UN) Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (also known as the "Bangkok Rules").

<sup>13</sup> FIDH, *Not so model: The reality of women incarcerated in Thailand's 'model' prisons*, 11 December 2019

<sup>14</sup> FIDH, *Flawed models - Implementation of international standards in Thailand's 'model' prisons for women*, December 2019

<sup>15</sup> FIDH, *Thailand Annual Prison Report 2022*, March 2022; <https://www.fidh.org/IMG/pdf/thailande791angweb.pdf>

<sup>16</sup> Observatory for the Protection of Human Rights Defenders, *Thailand: Deteriorating health and arbitrary detention of two pro-democracy activists*, 7 July 2022; <https://www.fidh.org/en/issues/human-rights-defenders/thailand-deteriorating-health-and-arbitrary-detention-of-two-pro>

- Please clarify whether the government intends to promote legislation and sentencing practices that take into account women’s discriminatory treatment by the justice system.

### **Women face the death penalty over drug-related offenses**

The imposition of the death penalty for drug-related crimes disproportionately affects women. According to the most recent official figures available, in July 2022 there were 26 women under death sentence in Thailand, and 24 of them (92%) faced execution over drug related offenses.<sup>17</sup> In the same month, the percentage of male prisoners sentenced to death over drug-related offenses stood at 62% (113 of 183).<sup>18</sup> This trend has been consistent over the past five years, with the proportion of female prisoners under death sentence ranging from 83% to 100%, compared to the percentage of male prisoners, which ranged from 45% to 59%.<sup>19</sup>

Even though amendments to Thailand’s Narcotics Code were enacted in 2021 to adjust penalties related to the production, import, export, drug possession, and drug abuse to be proportionate to the severity of the offense,<sup>20</sup> Article 145 of the amended Code retains the death penalty for the import, export, sales, and possession of dangerous narcotics such as heroin and methamphetamine.<sup>21</sup>

- Please indicate what steps has the government taken to make progress towards the abolition of death penalty and whether the government plans to abolish the death penalty for all drug-related offenses.

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<sup>17</sup> Department of Corrections, *Number of prisoners under death sentence*, July 2022;

<http://www.correct.go.th/executed/filepdf/1661330501.pdf>

<sup>18</sup> *Ibid.*

<sup>19</sup> Department of Corrections, *Statistical report on prisoners across the country*, January 2017 – January 2022;

[http://www.correct.go.th/rt103pdf/report\\_index.php](http://www.correct.go.th/rt103pdf/report_index.php)

<sup>20</sup> Reuters, *Thai parliament passes new narcotics bill that could ease overcrowded prisons*, 24 August 2021; Department of Corrections, *New Narcotics Bill in use this December*, 30 November 2021

<sup>21</sup> Narcotics Code, B.E. 2564 (2021), 9 November 2022; [in Thai]

[http://www.ratchakitcha.soc.go.th/DATA/PDF/2564/A/073/T\\_0001.PDF](http://www.ratchakitcha.soc.go.th/DATA/PDF/2564/A/073/T_0001.PDF)