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Thailand: Discovery of “Billy’s” remains should reinvigorate efforts to identify perpetrator(s)

The announcement that the remains of Pholachi “Billy” Rakchongcharoen, a Karen rights activist, have been located, brings a sad end to years of uncertainty for his family. This development should lead to a renewed focus on identifying the perpetrator(s) of his apparent enforced disappearance and bringing them to justice, said the International Commission of Jurists (ICJ) and Amnesty International today.

On 3 September 2019, the Thai Ministry of Justice’s [Department of Special Investigations](#) (DSI) announced it had located bone fragments, which they had identified as likely belonging to Billy inside an oil tank submerged in water near a suspension bridge inside Kaeng Krachan National Park in Phetchaburi province.

“The DSI should redouble its efforts to identify the perpetrator(s) of Billy’s killing and bring them to justice,” said Frederick Rawski, Asia Regional Director of the ICJ. “If, based on an assessment of the evidence, it is found that Billy was the victim of enforced disappearance, then the perpetrators, including those with command responsibility, should be charged with the appropriate, serious offences in accordance with Thailand’s obligations under international law - not only with lesser crimes that do not reflect the gravity of the offense.”

Billy was [last seen](#) on 17 April 2014 in the custody of Kaeng Krachan National Park officials.

“This case highlights the serious risks activists and human rights defenders face in Thailand, including assaults, enforced disappearance and killings,” said Nicholas Bequelin, Amnesty International’s interim Regional Director of Southeast Asia and the Pacific. “It underscores the long-overdue need for the Thai government to make enforced disappearance a crime under national law. A failure to do so results in the lack of an independent, impartial and effective mechanism to investigate the cases, exacerbating the current climate of impunity.”

The DSI stated that the recovered bones contain DNA inherited from Billy’s mother, which suggests they belong to a person who was related to her. However, the DSI declined to disclose the name of any suspect(s) and requested more time to investigate the case and examine the remains.

Background

Thailand is a state party to the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Freedom from enforced disappearance is protected under both these treaties, as enforced disappearance will always constitute violations of some or more of the following rights: the right to life; freedom from torture and other cruel, inhuman, or degrading treatment or punishment; the right to liberty; and the right to recognition as a person under the law. These are in addition to violations of the rights of members of the disappeared person’s family through suffering deliberately inflicted on them through the imposition on them of uncertainty about their loved one’s fate and whereabouts.

Thailand has also signed, but not yet ratified, the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). The ICPPED affirms the absolute right

not to be subject to enforced disappearance and places an obligation on states to investigate acts of enforced disappearance, to make it a criminal offence punishable by appropriate penalties that take into account its "extreme seriousness" and to take necessary measures to bring those responsible to justice.

The Government has stated it will not ratify the Convention until its provisions are incorporated in domestic law. However, efforts to pass the Draft Prevention and Suppression of Torture and Enforced Disappearance Act (draft Act) [stalled](#) after it was dropped by the National Legislative Assembly (NLA) prior to the 2019 national election. The draft Act is currently pending the consideration of the President of the National Assembly. Under international law of treaties, as signatory to the ICPPED, still is bound to desist from any acts which would defeat its object and purpose.

Thailand has a binding obligation under international law to conduct prompt, effective and thorough, independent and impartial, and transparent investigations into all suspected cases of unlawful death and enforced disappearance.

According to the ICPPED and [the revised Minnesota Protocol \(2016\)](#), which contains the international standards on the conduct of investigations into unlawful death and enforced disappearance – and [which Thailand launched in May 2017](#) – records that investigations "must seek to identify not only direct perpetrators but also all others who were responsible for the death, including, for example, officials in the chain of command who were complicit in the death." (para 26)

Further reading

[Thailand: special investigation into apparent enforced disappearance of "Billy" welcome, but much more is needed](#)

[Thailand: ICJ submits recommendations on draft law on torture and enforced disappearance amendments](#)

[Justice for Billy: Time for Thailand to Account for Activist's Disappearance](#)

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