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Taiwan government must ensure the reform of military criminal procedure legislation lives up to its promise of greater accountability

As Taiwan today embarks on a major new chapter in protecting human rights within its military system, all branches of the government should work together to ensure that the important reform which transfers jurisdiction for criminal offenses by serving military personnel to ordinary civilian courts lives up to its promise, said Amnesty International.

The changes to Taiwan's Code of Court Martial Procedure, which come into effect today, abolish Taiwan's military court system, military prisons and criminal detention centres during peacetime. They were approved by Taiwan's parliament, the Legislative Yuan, on 6 August 2013 and signed into law on 13 August.

The reform of the military criminal procedure was sparked by public outrage over the death of army corporal Hung Chung-chiu after he collapsed during exercises being carried out as a punishment in a military disciplinary detention facility on 4 July 2013. The legislative changes included a special clause that jurisdiction in certain categories of offenses, including those in the Hung case, would be transferred immediately.

Amnesty International has welcomed this development as a step towards greater accountability for human rights violations in Taiwan.

However, without proper implementation the legislative amendments will not deliver justice to the victims of human rights violations, including torture and other cruel, inhuman or degrading treatment or punishment, in Taiwan's military system.

Amnesty International is concerned by the substantial indications provided by lawyers representing the Hung family that the military prosecutors have not to date handed over some of the documentary evidence on the Hung case to their civilian counterparts.

The case against 18 military officers, charged with "collectively imposing illegal punishment on a subordinate" and "abusing a subordinate resulting in death" for the

death of Hung, is still ongoing in the civilian Taoyuan District Court in northern Taiwan. As by far the most significant case transferred to date, it serves as a test case for the new system.

In addition, Taiwan's Supreme Military Court and the Northern District Military Court petitioned the Council of Grand Justices in November 2013 for judicial review on the constitutionality of the revised Code of Court Martial Procedure, illustrating possible opposition to the changes within the defence establishment.

Amnesty International calls for Taiwan's Judicial Yuan (the judicial branch) and the Ministry of Justice to ensure that adequate resources are made available to civilian courts and prosecutors' offices to enable them to effectively handle this new area of responsibility.

The organization also calls on the Ministry of National Defence and the various branches of the armed forces to adopt suitable protocols and mechanisms to ensure smooth cooperation with civilian investigations and trials, and to carry out related training for military personnel.

Amnesty International has long expressed concerns regarding torture and the culture of impunity in Taiwan's military justice system that has meant, on the one hand, that innocent people have been wrongly punished, such as air force private Chiang Kuo-ching who was sentenced to death and executed in 1997 for a crime he did not commit. On the other hand, the authorities frequently fail to investigate allegations of human rights violations within the military properly, and those allegedly responsible have seldom been brought to justice.

The amendments to the military criminal procedure legislation do not affect the operation of military disciplinary detention facilities, such as the unit in which Hung was held, where torture and other ill-treatment have occurred, since these are separate from detention centres used to hold criminal suspects.

However, an amendment to Article 44 of the Criminal Code of the Armed Forces adopted on 31 December 2013 does more clearly prohibit treatment "in excess of what is necessary for education, training, combat or other military purposes".

Amnesty International calls on Taiwan's government and parliament to ensure that torture, as defined in the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), is criminalized under Taiwan's laws, as are at least deliberate forms of ill-treatment, including within and by the military.

Amnesty International further calls on Taiwan's government to commit to the UNCAT and implement its provisions and its Optional Protocol and establish a national preventive mechanism as envisaged by the Optional Protocol with unrestricted access to all places where people are deprived of liberty, including military disciplinary detention facilities.