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International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination
Eighty-first session

Summary record of the 2173rd meeting
Held at the Palais Wilson, Geneva, on Thursday, 9 August 2012, at 3 p.m.

Chairperson: Mr. Avtonomov

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The meeting was called to order at 3 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Initial to third periodic reports of Thailand (CERD/C/THA/1-3, CERD/C/THA/Q/1-3; HRI/CORE/THA/2012)

1. *At the invitation of the Chairperson, the members of the delegation of Thailand took places at the Committee table.*

2. **Ms. Suwanjuta** (Thailand) recalled that Thailand had become party to the International Convention on the Elimination of All Forms of Racial Discrimination on 23 January 2003 but had entered reservations to article 4, under which States parties were required to adopt immediate and positive measures designed to eradicate all incitement to racial discrimination, and article 22, under which disputes between States parties must be referred to the International Court of Justice. Thailand was considering the possibility of withdrawing its reservation to article 4, even though domestic legislation already contained a number of provisions prohibiting incitement to racial hatred. Thailand did not have a specific law against racial discrimination, but the provisions of the Convention had been incorporated into various laws. A number of mechanisms had been set up at the national and local levels to consider complaints from persons who considered that their rights had been infringed.

3. **Mr. Jinawat** (Thailand) said that the population of Thailand was made up of several ethnic groups, which coexisted harmoniously and peacefully. The healthy state of the economy, including the rise in gross domestic product (GDP), which was expected to reach US$ 373 billion in 2012, had made it possible to make significant investments in social programmes benefiting both nationals and non-nationals. Overall, poverty had fallen spectacularly to under 10 per cent. Thailand was party to seven of the nine core international human rights treaties. In January 2012, it had signed the International Convention for the Protection of All Persons from Enforced Disappearance and was currently revising its legislation with a view to ratifying that Convention. Thailand had withdrawn its interpretative declarations on article 6, paragraph 5, and article 3, paragraph 9, of the International Covenant on Civil and Political Rights. Its reservation to article 16 of the Convention on the Elimination of All Forms of Discrimination against Women, which related to discrimination against women in all matters relating to marriage and family relations, had also been withdrawn. Such measures testified to the efforts made by Thailand to implement the recommendations made under the Universal Periodic Review in October 2011, which Thailand had voluntarily accepted.

4. According to the midterm review of the second National Master Plan of Action on Human Rights (2009-2013), poverty had been reduced, school enrolment rates had risen, health services had improved and health coverage had been extended, although much remained to be done to implement the Plan more effectively. The report before the Committee had been drawn up in collaboration with all the interested parties, including representatives of ethnic groups and the National Human Rights Commission. The Government of Thailand was determined that everyone living in its territory should enjoy the rights conferred by the Convention.

5. One of the priorities for Thailand, which was a multiracial country, was to ensure that all persons living there had legal status and could therefore exercise their rights and have access to public services. The Civil Registration Act of 2008 provided that any person born in Thai territory must be registered and hold a birth certificate, including street children, abandoned children or children born of unknown or stateless parents. The 2012 amendment to the Nationality Act of 2008 allowed Thais displaced in neighbouring countries to regain their nationality of origin, once the necessary checks had been carried out. In April 2012, Thailand had adopted a comprehensive strategy to deal with the situation of migrant workers in an irregular situation in order that, for example, persons originally from the Lao People's Democratic Republic, Myanmar or Cambodia who had lived and worked in Thailand for a long time could have their situation regularized. The Prevention and Punishment of Trafficking in Persons Act of 2008 also provided for rehabilitation services for victims, regardless of their migration status.

6. The violence that had flared up in the border provinces of the south had been quelled. Between 2004 and 2012, financial compensation amounting to some US$ 30 million had been paid out to the families of

3,700 people who had lost their lives in the conflicts. The Government had set up a compensation committee for the peoples of the area and the committee had approved an additional budget for assistance to the region amounting to US$ 69 million. Thailand was aware of the difficulties that would be involved in taking effective action against racial discrimination and ensuring that everybody had equal access to public services. The problems encountered in that regard were due to linguistic, cultural and geographical factors, among others, but they also arose largely from ignorance on the part of public officials and the general public of the rights of the various ethnic groups and the international obligations that Thailand had in their regard. Although there had been information and awareness-raising campaigns, additional efforts were required to ensure the emergence of a truly tolerant society committed to a culture of human rights.

7. **Mr. Gongsakdi** (Thailand) said that Thailand was a country of transit, origin and destination for migrants, which explained the priority given to the management of migration flows. A number of countries in South-East Asia faced the problem of personal status and statelessness, a situation inherited from the colonial era, when ethnic communities and groups had been artificially separated from each other. The instability of some areas in the post-colonial era had not improved matters, since it had led to a significant displacement of populations. The social and economic disparities among the countries of the region and the porosity of the borders had aggravated the situation still further. The comprehensive strategy on the management of the problem of the personal status and rights of migrant workers, which had been replaced by the comprehensive strategy on the management of the situation of migrant workers in an irregular situation, had been considered by the Office of the United Nations High Commissioner for Refugees (UNHCR) to be an example of good practice in respect of the reduction in the number of stateless persons, with 34,962 registered cases of people in that category having received Thai nationality. The new strategy aimed to manage the situation more comprehensively by both ensuring the rights of migrants and taking account of national security and border control considerations. Measures had been taken to ensure that births were registered and identity documents issued to groups long-established in the country whose status was not yet legally established. The granting of legal status to about 300,000 people who could not return to their country of origin would be speeded up over the following three years. The migration policies of Thailand had the long-term objective of regularizing and checking the identity of some 2 million migrant workers originally from Myanmar, the Lao People's Democratic Republic and Cambodia, who had entered the country illegally and were working illegally in Thailand.

8. Although Thailand was not yet party to the 1951 Convention relating to the Status of Refugees, it continued, despite limited resources, to provide assistance to persons needing international protection, in cooperation with a number of international organizations and non-governmental organizations (NGOs). About 70,000 people had been relocated and about 140,000 people displaced from Myanmar had received protection while awaiting their return to their country of origin in safety and in dignity. Thailand had achieved most of the Millennium Development Goals and its GDP was expected to grow between 5.5 per cent and 6.5 per cent in 2012. The country had also made significant progress in the areas of health and education, although ethnic groups, migrant workers, displaced persons and asylum-seekers often remained marginalized and fell victim to trafficking and trade in persons. Thailand was absolutely determined to prevent and combat such trafficking and was working at the national, bilateral, regional and international levels for its elimination.

9. **Mr. Huang** Yong'an (Country Rapporteur) said that Thailand had acceded to the International Convention on the Elimination of All Forms of Racial Discrimination in 2003 but had made reservations to articles 4 and 22. In drawing up the report under consideration, the Thai Government had conducted inquiries and consulted the parties concerned, which testified to the importance that it attached to respect for the Convention. Since Thailand had acceded to seven of the nine core international human rights instruments, the human rights situation had improved significantly. The basic human rights principles were enshrined in the Constitution adopted by referendum in 2007, which recognized, inter alia, human dignity and the freedom and equality of every person. It also prohibited discrimination based on language or economic or social status. There was, however, no specific legislation on the elimination of racial discrimination. To comply with its obligations, the State party should

adopt a definition of racial discrimination in line with article 1 of the Convention.

10. Thailand was made up of 62 ethnic groups, of whom 85 per cent were Thais and 15 per cent members of ethnic minorities. However, Thailand had never, in conducting censuses, collected data enabling it to classify people in terms of their ethnicity. The term "ethnic minority" had not been clearly defined and the Thai Government declined to use the term "indigenous people", since it considered that indigenous people enjoyed the same rights as other nationals. It should, however, be noted that such persons were disadvantaged in relation to the rest of the population. Thailand had some independent human rights organizations, such as the National Human Rights Commission, established in 2001. He invited the Thai delegation to provide information on the role of the Commission in protecting the basic rights of Thais. Trafficking in persons was a major problem in Thailand and the Government must redouble its efforts to combat the problem.

11. He requested the Thai delegation to provide up-to-date information on abuses committed against migrant workers, whether in a regular or an irregular situation, by officials, police officers or private employers. He recalled that States parties were required to raise awareness among their populations, and not least among State officials, concerning human rights standards in order to ensure that everybody, including ethnic minorities, could enjoy their basic rights. As for the disturbances that had occurred in the Muslim-majority provinces in the south where the Government had declared a state of emergency and applied martial law, he urged the State party to take the problem seriously and to change its policies in order to tackle the profound causes of conflict between local authorities and civilians. The north-west of the country had numerous problems, particularly in the Golden Triangle, which was reputed to be a hub of drug trafficking. A number of foreigners in an irregular situation and members of ethnic minorities were involved in drug trafficking. The State party, which had taken radical measures to suppress the problem, should cooperate further with the international community. With regard to the forced expulsion of members of the Karen minority from the Kaeng Krachan National Park, the Government should engage in dialogue with the local population in order to find an effective solution in line with its legislation, without causing conflict.

12. He understood that Thailand was minded to withdraw its reservations to articles 4 and 22 of the Convention, but he requested the delegation to confirm that intention. He noted that Thailand had received a very large number of refugees fleeing their country owing to wars and internal disturbances since the 1970s and therefore called on the State party to consider acceding to the 1951 Convention relating to the Status of Refugees and the Protocol to it.

13. **Mr. Lahiri** said that the status of the Convention in the Thai legal system was not clear, given that there was no text defining racial discrimination and that no specific measures had been taken to combat such discrimination. He encouraged the State party to incorporate the provisions of the Convention into its national legislation and to consider the indicators of the social and economic situation of ethnic minorities with a view to guaranteeing their basic rights.

14. **Mr. Murillo Martínez** asked whether the State party had an intercultural system of justice that took account of the rights of the Muslim population, including those of women, and asked about the role of the Islamic Council for the Rights of Migrant Populations. He also asked whether the State party had considered acceding to the United Nations Convention against Transnational Organized Crime, whether it had detailed statistics on the number of stateless persons and whether school textbooks reflected the country's ethnic diversity. He also invited the State party to make the declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider communications. Lastly, he requested further information on the level of participation by ethnic groups in public life.

15. **Mr. Thornberry** asked why the State party had not acceded to the Convention on the Prevention and Punishment of the Crime of Genocide or the International Labour Organization (ILO) Indigenous and Tribal People's Convention, 1989 (No. 169). He also asked whether the State party had taken practical steps, in the form of a national plan of action, to implement the United Nations Declaration on the Rights of Indigenous Peoples, which emphasized land rights and the right to self-determination. He requested the delegation to explain why Thailand had made a reservation concerning article 4 of the Convention that

was so broad that the Committee could not tell which obligations the State party was prepared to accept.

16. He wondered whether the principle of involving the indigenous communities in decisions concerning them was actually applied, particularly with regard to communities on the highlands, which the State aimed to reorganize into permanent villages, according to paragraph 50 of the report. He also wished to know whether such sedentarization measures had been taken with the prior consent of the parties concerned. Discrimination was not always the result of deliberate political will — it could also be indirect or structural — and he suggested that the State party should take practical preventive measures. He commended the willingness that Thailand had shown at the Universal Periodic Review to continue its efforts to acknowledge cultural diversity and protect vulnerable groups. He asked whether Thai schools provided education in the languages of the ethnic minorities. He noted with concern that only persons who had obtained Thai nationality at birth could stand in elections and requested further information in that regard. Lastly, he wished to know how the State party ensured the implementation of provisions of the Convention that had not been incorporated into domestic law.

17. **Mr. de Gouttes** said that, according to NGOs, indigenous peoples were sometimes seen as a threat to national security and considered a driving force behind the drugs trade. He asked what the delegation thought in that regard. He also wanted further information on the results of the strategies implemented by the State party to resolve the problem of the legal status and the protection of the rights of members of certain ethnic groups. He also requested detailed information on the special permission to stay for a temporary period granted to members of such groups. It would be useful if the delegation could give further information on the following points: the new Community Forest Act (para. 110 of the report); cooperation between UNHCR and the State party on improving the administration of justice in displaced persons' shelters; the situation of the Karens and the Hmongs, the ethnic groups in the north of the country; and the guidelines drawn up by the National Reconciliation Commission on promoting reconciliation in the three southern provinces with a Muslim majority, which had been the scene of serious disturbances. In that connection, he particularly wished to know what the delegation thought about the information from the Thai National Human Rights Commission that the situation was largely due to the excessive use of force by State security bodies. He also asked whether refugees from Myanmar who had stayed in shelters had been repatriated. Lastly, he wondered what the situation was of the Rohingyas and the Hmong refugees from the Lao People's Democratic Republic.

18. **Mr. Diaconu** said that the State party should reconsider the interpretative declaration that it had made at the time of its accession to the Convention, whereby the Convention did not apply outside the framework of the Constitution. He welcomed the fact that the State party intended to withdraw its reservation to article 4, under which it had stated that it would adopt new laws in the areas covered by the article only when it deemed that necessary. He regretted that the report did not contain any more details on legislation against racial discrimination and incitement to racial hatred or on the legal remedies available to victims and requested the State party to provide fuller information on that issue in its next report. He asked whether the state of emergency imposed in the border provinces of the south applied only to Thais of Malay origin or whether it also applied to other people. According to information brought to the Committee's attention, women of Malay origin were victims of discrimination, particularly with regard to divorce and inheritance rights. He asked the members of the delegation to tell the Committee what they knew.

19. He asked whether there was a law protecting the rights of migrants, whether in a regular or irregular situation, in the event of abuse of power by their employers and whether it was true that migrants did not have the right to change employers if they wished to retain their residence permit. He requested the delegation to comment on information that the State party tended to put the responsibility for the effects of climate change on the indigenous peoples, who allegedly improperly exploited forest resources. He was concerned about the distinction drawn by the State party between ethnic Thais and persons who had been naturalized, since that had the effect of creating two categories of citizen. The State party should take the necessary measures to ensure that everyone, regardless of his or her status, had access to basic health care. Lastly, he recalled that, at the World Conference on Human Rights, held in Vienna in 1993, the Asian States had put forward the suggestion of an Asian regional right that would be different from others and asked

whether Thailand considered that there existed regional values that might call into question the principle of the universality of human rights.

20. **Mr. Kemal** said that Thai culture and values were characterized by such qualities as respect, kindness and compassion, whereas trafficking in persons for sexual exploitation implied a mentality that was the very opposite of that culture and he asked the delegation to explain how trafficking in persons could have reached such proportions in the State party and who organized it. According to information brought to the Committee's attention, members of the Rohingya Muslim minority who had fled Myanmar aboard small boats had been repelled a long way off the Thai coast and abandoned at sea. The delegation should tell the Committee whether inquiries had been held and whether measures had been taken to avoid a repetition of such incidents.

21. **Mr. Vázquez** said that he was concerned by the situation of Malay Muslims living in the south of the country, where, according to information received by the Committee, martial law and the state of emergency in force authorized law enforcement personnel to arrest anyone suspected of rebellion, on the basis of mere presumptions. Malay Muslims had been the only ones to be arrested by the police and 80 per cent of suspects had subsequently been released for lack of evidence, which suggested that law enforcement personnel used racial profiling. He asked what measures the State party had taken to put an end to such large-scale arrests of innocent persons and whether it intended to amend or withdraw provisions allowing law enforcement personnel to arrest people on very tenuous grounds.

22. He noted that a number of people belonging to highland communities had been arrested for breaching the law on protected national forests, which forbade them to live in certain areas, even though they had lived there since time immemorial and their way of life was closely bound up with their environment. Moreover, since the law on acquiring nationality required that candidates should not have a criminal record for their naturalization to be accepted, members of those tribes who had been arrested because they had returned to live in the forest could never have the opportunity to obtain Thai nationality and would remain stateless. He asked whether the State party was aware of the problem and intended to rectify it. He also asked the delegation to confirm the information that Thailand intended to withdraw its reservation to article 4 of the Convention and to provide clarification on the reservation, which gave the impression that the dissemination of racist ideas and incitement to racial hatred were unknown in Thailand.

23. **Mr. Amir** asked whether negotiations had been undertaken to ease inter-religious tensions in the south of the country and noted that a fair division of the fruits of the State party's economic growth could help reduce the risk of inter-ethnic or inter-religious conflicts. In view of the fact that the main Thai victims of the 2004 tsunami had been fishermen and that that category of the population was particularly vulnerable in such types of natural disaster, he asked whether the Government had taken preventive measures to protect the populations of coastal areas.

24. **Mr. Calí Tsay** said that he was surprised to learn that minorities were defined by the Ministry of Internal Affairs as groups of persons originating from countries other than Thailand. He noted that the highland communities were included among the 17 minorities listed in paragraph 12 of the report, whereas, in paragraph 16, they seemed to be considered an ethnic group. The delegation should provide an explanation of the discrepancy and indicate whether the State party saw highland communities as groups of foreign origin. It should also provide clarification of what was understood by the notion of "ethnic group" and say how it differed from the notion of a minority. It should explain what was meant by the expression "common way of living" used in paragraph 13 of the report.

25. He asked, with reference to paragraph 76 of the report, whether Thais needed a passport to move around within the country and requested fuller information on the provisions prohibiting access to the country by the certain categories of person, including persons with a mental disorder or harmful behavioural traits. He asked how children born to parents who could not prove their registration could obtain Thai nationality. Lastly, he wished to know whether ethnic minorities could be taught in their own language and, if so, whether textbooks had been translated into the relevant languages.

26. **Mr. Ewomsan** asked whether certain ethnic groups were more represented than others among victims of trafficking for the purposes of sexual exploitation and whether, in view of the flourishing economic situation, the State party had taken steps to

improve the situation of the most disadvantaged people, given the close link between poverty and sexual exploitation. He noted that, according to paragraph 6 of the report, there were five main language families spoken in Thailand and he wondered whether the speakers of different languages belonging to the same language family could understand each other. Lastly, he wished to know whether migrants of African origin were to be found in the territory of the State party. If so, he asked how they were regarded by the population.

27. **Mr. Lindgren Alves** asked whether Buddhism had been declared the official State religion and, if so, whether people who were not Buddhists could be recruited into the civil service.

The meeting rose at 6 p.m.