



**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 2174th meeting**

Held at the Palais Wilson, Geneva, on Friday, 10 August 2012, at 10 a.m.

*Chairperson:* Mr. Avtonomov

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*The meeting was called to order at 10 a.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 (continued) (CERD/C/THA/1-3; CERD/C/THA/Q/1-3)*

1. *At the invitation of the Chairperson, the members of the delegation of Thailand took places at the Committee table.*
2. **Ms. January-Bardill** said that her reactions on reading the Thai report had shifted from a sense of confusion to one of admiration for the State party's efforts to address the challenges facing the country. She encouraged it to continue taking resolute action to eliminate racial discrimination.
3. Some of the language used in the report was somewhat negative. There were references, for example, to aliens, persons with status problems and rootless persons. Some held blue identity cards, while others held yellow cards with dark blue rims or green cards. Most immigrants were described as illegal, and foreign students at Thai academic institutions were deemed to have a status problem. She warned against the practice of labelling people and imposing identities. It would be preferable to find new ways of describing them in consultation with representatives of the groups concerned.
4. Adoption of the definition of racism and racial discrimination contained in the Convention would serve as a useful tool for redressing injustice. Definitions should be descriptive, shed light on the issues involved and encourage special measures to protect the rights of affected people.
5. It would be helpful if the next periodic report clarified the meaning of Thai citizenship. She asked whether the concept of Thai national identity existed and, if so, whether it was defined in such a way as to ensure that the rights of all people living in the country were protected.
6. She was pleased to read in paragraph 45 of the report that civil servants were required by their Code of Conduct to welcome, attend to and facilitate people's visits to their offices. She also welcomed the information concerning the Strategy to Address the Problem of Status and Rights of Persons as well as the disaggregated data contained in paragraph 82. The Committee would appreciate further disaggregated information in the next periodic report concerning article 5 of the Convention, especially the right of access to justice.
7. The marriage laws described in paragraph 89 were quite complicated. She wondered why marriages with non-Thai citizens were subject to so many bureaucratic regulations.
8. She encouraged the State party to withdraw its reservations to articles 4 and 22.
9. **Ms. Crickley** said that the complex situation described in the State party's report called for multidimensional responses. In that context, she emphasized the utility of disaggregated data. She added that it was preferable to describe differences than to prescribe uniformity.
10. She understood that the reservations to the Convention and the interpretative declaration were to be addressed in the second National Master Plan of Action on Human Rights which was currently being drafted.
11. Noting that a group had been established in the Ministry of Justice to coordinate the drafting of the report, she asked whether a similar body would be created to monitor

follow-up to the Committee's concluding observations and whether non-governmental organizations (NGOs) would be consulted on possible approaches to their implementation.

12. Given the complexity of the refugee situation in Thailand, she encouraged the State party to ratify the Convention relating to the Status of Refugees, the Protocol relating to the Status of Refugees and the Convention relating to the Status of Stateless Persons. As Thailand had agreed to do so during the universal periodic review process, she enquired about the stage reached in the ratification procedure. In that context, she noted that defects in birth registration could generate statelessness, irrespective of the status of a child's parents. She would appreciate more detailed information about the justice system applicable to refugee camps. There was apparently considerable confusion with respect to jurisdiction.

13. She would also welcome further details concerning protection for both documented and undocumented migrant women, including access to health care and work permits. She understood that a new regulation was about to be adopted, pursuant to which foreign pregnant women, even those who had made social security contributions, would be required to return to their countries of origin to give birth.

14. She encouraged the State party to give priority to the right to self-identification when adopting measures to improve the conditions of minority ethnic groups.

15. She was particularly concerned about allegations of racial profiling and the unwarranted targeting of, for instance, members of minority groups as possible perpetrators of terrorist or drug offences. She asked what measures were being taken to preclude such profiling and whether training courses were organized for the officials who would be responsible for their implementation.

16. **Mr. Muntarbhorn** (Thailand) said that Thailand was a party to seven of the nine core United Nations human rights treaties. It was not yet a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families but it had signed the International Convention for the Protection of All Persons from Enforced Disappearance. Thailand had joined the consensus on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and had also voted in favour of the Declaration on the Rights of Indigenous Peoples, which had been translated into the Thai language and would be widely disseminated. His country had not yet considered ratifying the Convention on the Prevention and Punishment of the Crime of Genocide, but it had signed the Rome Statute of the International Criminal Court, which also dealt with genocide, and was discussing the possibility of ratification.

17. With regard to International Labour Organization (ILO) conventions, there had been no serious discussion yet of the Indigenous and Tribal Peoples Convention, 1989 (No. 169). However, he intended to call for a debate on the matter on returning to Thailand. His country was a party to over 10 other ILO conventions, some of which were applicable to ethnic issues and migrant workers, for instance the Employment Policy Convention, 1964 (No. 122).

18. Thailand had pledged during the universal periodic review process to issue a standing invitation to United Nations special procedures mandate holders, including those dealing with indigenous and minority issues. With regard to the relationship between the universality of human rights and national and regional approaches to human rights, he noted certain tendencies towards cultural relativism and advocacy of what were termed national and regional "particularities". The preferred approach was that reflected in the 1993 Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, according to which: "While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to

promote and protect all human rights and fundamental freedoms.” Hence, if national or regional particularities transcended international human rights standards, no problem arose. However, if they were lower than international standards, they would need to be changed. The Association of Southeast Asian Nations (ASEAN) was currently drafting a human rights declaration. One of the key issues was how to deal with universality and particularities. Thailand would emphasize the balanced approach adopted in the Vienna Declaration and Programme of Action.

19. He welcomed the Committee’s advice concerning the withdrawal of the two reservations and the interpretative declaration. There had been no concrete discussion of the possibility of withdrawal to date, but it should certainly be explored in the near future. In the meantime, he noted that some elements of articles 4 and 22 were covered by existing legislation. For example, hate speech that was tantamount to libel and slander was covered by articles of the Criminal Code and the Civil Code and by the Computer Crimes Act, the Radio and Television Broadcasting Act and emergency legislation. Moreover, Thailand was guided by articles 19 and 20 of the International Covenant on Civil and Political Rights, which dealt with various aspects of freedom of expression.

20. Thailand had a dualist system, and therefore treaties must be incorporated into domestic law by an act of Parliament. There was admittedly no specific Thai legislation dealing with the implementation of the Convention. However, some elements were reflected in existing laws, including articles 4, 5 and 30 of the 2007 Constitution. Article 30 prohibited discrimination on 11 grounds. According to the drafting history of the Constitution, special measures on behalf of disadvantaged groups were not to be viewed as discrimination. He assured the Committee that steps would be taken to enact legislation incorporating anti-discrimination measures.

21. In 2003 the Constitutional Court had ruled that a national law was in breach of article 30 of the Constitution. The law in question concerned candidacy conditions for municipal elections and discriminated against Thais with foreign fathers.

22. The National Human Rights Commission acted on many fronts. It received complaints regarding ethnic issues. Between 2004 and 2011 it had received some 60 complaints regarding southern Thailand, several of which concerned torture and the negative attitude of some of the authorities. The Commission had been established by the 1997 Constitution. Its membership had been reduced since then from 11 to 7. The International Coordinating Committee had classified it as a grade A international human rights institution, which meant that it complied with the Paris Principles in terms of independence and plurality of membership. Its mandate included: monitoring international human rights treaties; advocating accession to treaties receiving complaints of alleged violations; submitting annual reports to Parliament; and promoting human rights education. It enjoyed subpoena power and could summon Government and other officials to appear before it. The Commission was also required to be accessible to the general public and to visit different parts of the country, co-opting independent experts as and when necessary. The 2007 Constitution empowered the Commission to initiate legal proceedings and to act as co-plaintiff with victims of crime. On the other hand, the 2007 Constitution had reduced the involvement of civil society in the Committee that selected candidates for membership. Steps were being taken to promote a more pluralistic and transparent selection process.

23. **Mr. Preecha** (Thailand) said that the violent situation in the southern provinces of Thailand was not as severe as might be gathered from the media. People still made a living, provided services, and travelled regularly to and fro. Only 8 per cent of the more than 10,000 incidents reported in the past eight years had entailed violence. The remainder had involved personal conflicts, conflicts of interest and local influence, and drug trafficking conflicts. The southern provinces were not in a state of war or armed conflict. Every effort was being made to prevent violence and to allow people to return to a normal life as soon as

possible. The security forces were used to protect people, not to destroy them, and their number was being gradually reduced.

24. Thailand was a multi-ethnic, multireligious, multilinguistic and multicultural country. Roughly 82 per cent of the population of the southern provinces were Malayu-descended Thais. The remainder were Chinese, Thai, Indian and of mixed ethnicity. However, everyone was deemed to be Thai.

25. The Internal Security Operation Centre (ISOC) was implementing the following six strategies in the three southern provinces: promotion of understanding; human resource development; prevention of additional threats; promotion of human rights; protection of lives and property; and encouragement of participation by all parties. The Thai Government was therefore particularly concerned to promote human rights, justice and equality for all citizens. The officials in the area were offered training in legal and human rights issues before and during their operations. Moreover, representatives of the United Nations, the Organization of Islamic Cooperation, the Office of the United Nations High Commissioner for Refugees (UNHCR) and NGOs, as well as academics, researchers and members of the diplomatic corps, were invited to participate in monitoring, reporting and the submission of recommendations for further development.

26. All religious activity was tolerated. Thailand encouraged citizens to practise their faith, for example by engaging in daily religious activities, praying five times a day, offering food to monks, and performing religious rites on important days or festivals. Support was provided during the fasting period of Ramadan and to meet the expenses of those travelling to Saudi Arabia for the Hajj. Support was also provided for Buddhist activities, the Chinese Vegetarian Festival and the paying of respect to the Chinese Goddess Lim Kor Neao.

27. All persons were equal under the Constitution and the law, and the Government strove to promote the culture, customs, traditions, dress and way of life of every ethnic group in the country. The population was encouraged to speak the local language; for example, most of the inhabitants of the southern border provinces spoke Malayu, even if they did not belong to the Malayu Muslim community. Malayu was used in schools, government offices, hospitals and courts, and interpreters were available if necessary. Bilingual programmes in Thai and Malayu were being improved and expanded, and students were encouraged to learn English. Students were free to choose among three types of schools, namely public, private and religious. The Government also provided scholarships to pursue post-secondary education either in Thailand or abroad. Individuals of all races and religions were eligible to vote in local elections, stand for local office or apply for public-sector jobs. Malayu Muslims made up 40 per cent of government officials in the southern border provinces. Sharia law could be applied in family and property matters, and the Office of the Attorney General in cooperation with muftis had set up a centre to assist Muslims in untangling legal issues and accessing justice.

28. The rationale behind the special laws in force in the southern border provinces — namely, martial law, the Emergency Decree and the Internal Security Act — was to provide sufficient time for investigations and gather intelligence in order to prevent violent incidents. The laws were not intended specifically for Malayu Muslims but were applicable to all Thais. Contrary to the allegation that persons could be held for 7 to 30 days, once temporary detainees were cleared by an investigation they were immediately released. ISOC had established arrest and detention procedures which prohibited torture of any kind. Delays in the criminal process were partly due to the reluctance or unavailability of witnesses. There were no prohibitions on travel to fields, places of employment or markets or on religious practice. Martial law and the Emergency Decree had been lifted in five districts in Songkhla and Pattani provinces, and the possibility of lifting the Emergency Decree in additional districts was under consideration.

29. **Ms. Sirorat** (Thailand) said that, because Thailand was a country of origin, transit and destination, trafficking in persons had been at the forefront of the political agenda since 2004. For example, the Human Trafficking Prevention and Suppression Act took a rights-based approach to the protection of all victims, irrespective of gender, origin or legal status, in keeping with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Under the Act, trafficking victims were entitled to work outside of temporary shelters, enabling them to earn a living during the legal process. Public prosecutors could also apply for compensation on behalf of victims. A fund had been set up to finance victim protection and assistance, while the Money Laundering Prevention and Suppression Act had proved an effective tool for punishing perpetrators. Steps were being taken to strengthen cooperation among Government agencies and NGOs that worked to rescue, repatriate and reintegrate trafficking victims. The Department of Special Investigation under the Ministry of Justice had established the Operation Centre for Human Trafficking Prevention and Suppression to enforce the Human Trafficking Prevention and Suppression Act through more effective law enforcement. Government officials and personnel in various related domains received human rights training on a continual basis. The main challenge the authorities faced was screening for potential victims. To that end, identification of migrants was conducted in immigration detention centres by multidisciplinary teams composed of police and immigration officers, social workers, psychologists, maritime police, prosecutors, labour inspectors and NGOs.

30. During the coming year, the Government would be implementing the legislation needed in order to ratify the United Nations Convention against Transnational Organized Crime, in fulfilment of the recommendation made during the universal periodic review. The Ministry of Labour was responsible for ensuring that migrant workers, regardless of their legal status or nationality, were protected and received benefits in accordance with the Labour Protection Act. Migrant victims of labour exploitation could call the Ministry hotline to file a complaint in their native language. Labour inspectors then investigated the complaint and had the power to issue warnings to the employer. Should the employer fail to comply, inspectors were under the obligation to refer the case to the labour court. Returning pregnant migrant workers to their country of origin was merely a component of a more comprehensive examination of the rights of female migrant workers and their children, and remained at the discussion stage.

31. **Mr. Gongsakdi** (Thailand) said that Rohingya migrants found in Thailand or Thai territorial waters were given assistance and processed by the local authorities, while those intercepted in international waters on their way to a third country were provided with food and water. The Government was determined to cooperate with all stakeholders to find a sustainable solution to the situation in Myanmar and worked closely with UNHCR and the embassies of Myanmar and Bangladesh to address the issue of citizenship and identity. It would continue to engage with other countries in the region through frameworks such as the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime. The case of the Hmong of the Lao People's Democratic Republic was considered closed. The approach had been to create sustainable livelihoods in the country of origin or resettle migrants in third countries.

32. Displaced persons from Myanmar continued to be the biggest migration issue for Thailand, which had been receiving them for nearly 30 years. There were 140,000 living in 9 temporary shelters across the country. The Government provided them with food, shelter, education and health care with the assistance of NGOs and international agencies. It was examining ways to enhance their livelihoods and available services, especially vocational training, while considering more permanent solutions. Temporary shelters were self-governed through camp committees, which were seen as future partners in the rebuilding of Myanmar and resettlement of displaced populations. The Government was nonetheless

implementing a more systematic approach to justice in the shelters. To that end, the authorities had cooperated with UNHCR and the International Rescue Committee to operate legal assistance centres within temporary shelters. The pilot phase had been expanded to cover additional activities such as human rights training. There was no policy of forced return, but the porous border meant that persons moved back and forth depending on the stability of the situation in Myanmar. The ultimate goal was naturally to shut down the shelters, but no specific time frame had been set.

33. There was a mechanism in place to periodically review Thailand's position regarding the Convention relating to the Status of Refugees and the relevant Protocol. Were a solution found to the Myanmar situation, Thailand would be left with an urban refugee population of 2,000 people, which was much more manageable and might make ratification possible. In the meantime, Thailand abided by the Convention without being a party to it, in accordance with its humanitarian tradition. For example, Provincial Administration Offices, administered by the Ministry of Interior, screened migrants for admission and ensured protection in the temporary shelters. They were working towards a fast-track admission process for cases of family reunification. Human rights were a key element of a number of initiatives, including a colour-coded card carried by soldiers that defined acceptable and unacceptable behaviour. Lastly, Thailand continued to engage and exchange with other countries on how they managed migration.

34. **Mr. Tharathep** (Thailand) said that all Thai nationals, including persons belonging to ethnic minorities, were entitled to universal health care and education, provided that they had been registered at birth. Given that migrant workers and some ethnic and tribal minorities tended not to register births, in March 2010, the Government had approved a budget of approximately \$15 million to give unregistered persons access to health care. Although there were plans to expand coverage to all, irrespective of nationality, a World Health Organization assessment of Thailand's handling of the 2009 influenza pandemic revealed that there was no significant difference in the degree of treatment of migrants versus Thai nationals. Health and education services for displaced persons living in temporary shelters were provided by provincial agencies and NGOs, under the guidance of the Ministry of the Interior. Language rights were guaranteed under the Constitution and students were taught to read and write in their mother tongue in addition to Thai. The Ministry of Culture had conducted campaigns to promote the use of local languages.

35. **Ms. Kashemsanta na Ayuddhaya** (Thailand), in response to a question about the lack of clarity in the definition of ethnic groups, said that the State party had encountered some difficulties in drafting the report in 2005, since racial discrimination had not yet been explored in Thailand. To facilitate the task, consultations had been held with government agencies, private entities, NGOs and academic experts. Two committees had also been established, to determine the structure and contents of the report respectively.

36. The definition of minorities and ethnic groups in paragraph 11 of the report, produced by the Department of Provincial Administration, Ministry of the Interior, was limited in scope, as it had been shaped by the situation of mass migration at the time. Therefore, the broader definition contained in paragraph 13, based on ethno-linguistic research in Thailand, had been adopted for the purposes of the report. On the basis of that definition, 62 ethnic groups had been identified, within 4 main ethnic families. Six focus groups had been held with ethnic groups across the country, and the public had been invited to comment on the report at a number of open sessions.

37. She was not sure whether the definitions used in the report were in line with the Convention, and said the delegation would welcome the Committee's comments in that regard. With the Committee's support, and international instruments such as the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious

and Linguistic Minorities as reference points, the State party would be able to improve upon its reporting process in future.

38. **Mr. Jinawat** (Thailand) observed that many stakeholders had been involved in the process of drafting the report and highlighted the complexity of working in a large delegation, comprising 25 representatives from a range of agencies. Thailand had learnt much from the experience and was ready to act on the Committee's recommendations in order to improve the methodology and contents of the next report. In response to a comment by Ms. Crickley, he said that the reporting process had been based on a participatory approach and that a follow-up mechanism would be established to ensure implementation of the Committee's recommendations.

39. **The Chairperson** said that it would be difficult for the Committee to assist Thailand in classifying its ethnic groups. According to international law, self-identification was the best basis for the definition of ethnic distinction. Language was indeed an important consideration but was not the sole determinant of ethnicity, since speakers of several languages or dialects might identify themselves with a single ethnic group; examples included the Maya people in Latin America and the Mari people in Russia. Religion was an important factor to take into account, given its impact on culture and lifestyle. The Committee focused on discrimination against, rather than the definition of, different peoples. Nevertheless, it did occasionally advise States parties to recognize certain groups as distinct from others, in the light of those groups' self-identification, such as the Amazigh community in Libya, Morocco and Tunisia.

40. **Mr. Thornberry**, in response to the statement by Mr. Muntarbhorn, drew attention to the Committee's general recommendation No. 23, on indigenous peoples, and general recommendation No. 8, on self-identification. The current discussion on indigenous peoples in Thailand had been positive, even if the correct terminology had not been used. He encouraged the State party to develop a national strategy, preferably including ratification of ILO Convention No. 169, though it should be noted that the majority of communications brought before ILO under that instrument related to participation and prior informed consent in decision-making. Citing paragraph 8 of general recommendation No. 32, on the meaning and scope of special measures in the Convention, he reiterated that the principle of non-discrimination was founded on the equal treatment of persons in objectively comparable situations. Uniform treatment could impair the enjoyment of rights by certain groups. For example, establishing a common language of education could undermine the exercise of rights by children with a different mother tongue. He drew attention to the guidelines produced by various United Nations agencies regarding education, including recommendations by the United Nations Forum on Minority Issues and Advice No. 1 (2009) by the United Nations Expert Mechanism on the Rights of Indigenous Peoples.

41. Thailand's reservation to article 4 of the Convention, and interpretative declaration on the Convention as a whole, rendered it difficult to determine the State party's level of commitment to that instrument. Between international law and domestic law, the former should prevail. Regarding the necessity of introducing article 4 into Thailand's domestic legal framework, he stated that the article played a preventive role and required legislation for its implementation. He therefore strongly encouraged the State party to withdraw those reservations. It should also clarify its legislative response to obligations under the Convention, for the benefit of the State party and the population, since sporadic legislation created confusion. He highlighted the need to employ appropriate terminology in the report, in law and in practice. In closing, he affirmed that the function of the Committee was not to interrogate but to cooperate with States parties to ensure effective implementation of the Convention.

42. **Mr. Saidou** said that Thailand's National Human Rights Commission was a credible institution but had lacked determination on certain sensitive issues since the reform in 2007.

Further legal provisions were required to protect the members of the National Commission, in light of the increasingly important role that it played. The Committee had learned that the National Commission received approximately 700 complaints every year, though in the absence of a Commission representative at the current meeting, it was impossible to know how many of those related to racial discrimination.

43. Thailand was experiencing strong economic growth, and public companies were growing in influence. The penal responsibility of moral persons had been introduced into the Criminal and Criminal Procedure Codes of Thailand. However, from the perspective of corporate social responsibility, had the State party planned to take measures to ensure that those companies did not practise discrimination through their investments or activities outside of Thailand?

44. Regarding paragraph 35 of the report, he requested clarification of the concept of “rootless persons”. With regard to paragraph 38, he asked why the term “displaced persons” had been used to describe those who had fled to Thailand from Myanmar, rather than “migrants” or “refugees”.

45. **Mr. Gongsakdi** (Thailand), responding to Mr. Saidou’s second question, said that the term “displaced persons” had been used to avoid using the term “refugees”, since Thailand had not ratified the 1951 Convention relating to the Status of Refugees.

46. **Mr. Muntarbhorn** (Thailand) said that reference had been made to “citizens” and “non-citizens” to make it clear that monitoring and reporting applied to all persons and not solely to Thai nationals. The State party already gave consideration to the principle of prior and informed consent. For example, the Constitution guaranteed community rights, which provided for public participation in decisions relating to the environment. It was necessary in future to extend that principle to the fields of health care and human rights. He took note of the need to broaden the concept of discrimination to encompass direct, indirect, personal, systemic and structural discrimination. With regard to languages and education, Thailand was working closely with the United Nations Educational, Scientific and Cultural Organization, which also advocated mother-tongue education. Thailand would reconsider its interpretative declaration and reservations on the Convention. Earlier in the year, it had withdrawn its reservation to article 7 of the Convention on the Rights of the Child, and discussions were under way to withdraw further reservations on the Convention on the Elimination of All Forms of Discrimination against Women, showing its willingness to move towards greater transparency and acceptance of international instruments. Thailand was open to enacting a specific law on racial discrimination, though its scattered legislation would suffice in the meantime. With regard to human rights institutions, he said that protection was a challenge that required more attention. Of the 700 to 800 complaints received every year, it was not known how many related to racial discrimination. He believed that the majority concerned threats to the right to life. Between 2004 and 2011, approximately 60 cases had been opened in southern Thailand, based on allegations of torture, which could partly be related to issues of racial discrimination. More work could be done to disaggregate data. Finally, Thailand understood the importance of corporate social responsibility and hoped that the newly established working group on business and the State party’s standing invitation to special procedures would drive progress in that regard.

47. **Mr. Calí Tzay** commended Thailand on its efforts in assisting refugees, but recommended that it reconsider its position regarding the 1951 Convention relating to the Status of Refugees. Reiterating comments made by Mr. Kemal and Mr. Vázquez at the previous meeting, he expressed concern about reports of Muslims in southern Thailand being stigmatized following accusations of terrorism or affiliation with insurgent groups. Despite the fact that 80 per cent of those accused were later declared innocent, they continued to be labelled as dangerous and subjected to investigation and registration, which

amounted to harassment. He requested information on the situation of those persons and on whether the State party planned to remove them from its information databases.

48. **Mr. de Gouttes** highlighted the absence of any specific law in Thailand to define and criminalize racial discrimination. Article 4 of the Convention expressly provided that States parties declare as punishable offences, *inter alia*, all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence against any race, racist propaganda and assistance to racist activities, including the financing thereof. No State was entirely free of ethnic and racial discrimination and, as such, the provisions of article 4 were mandatory for all, as established by general recommendation No. 15. Since the Convention was not directly applicable under Thailand's dualist legal system, he urged the State party to effectively incorporate and implement its provisions, and in particular its article 4.

49. **Mr. Jinawat** (Thailand) said that the Government was making every effort to assess the security situation in the southern border provinces. A review of the laws, policies and regulations governing security and law enforcement agencies in the area was under way. In addition, there had been some improvements in human rights that had resulted from work by the Ministry of Justice with those agencies, including the training of trainers and development of a law enforcement operations manual. The courts had acquitted some 80 per cent of the persons accused of involvement in the violence in the south. The Government had approved a compensation package for the persons affected and was placing greater emphasis on prevention. Furthermore, it had involved civil society in the monitoring of the security and law enforcement agencies, including by opening up police stations and military bases for visits.

50. **Mr. Vázquez** said that the interpretative declaration that the articles of the Convention would not apply beyond the framework of the Constitution and domestic law presented problems for the reasons outlined by Mr. Thornberry. Further clarification was needed concerning the reservation to article 4. Moreover, although it was characterized as a reservation, it was written as an interpretative declaration. He wondered whether it should be regarded as such. The reservation stated that measures under subparagraphs (a), (b) and (c) would apply only when the country saw the necessity to enact such laws. However, whether in fact legislation was needed was a problematic standard for a reservation. He asked whether the reservation implied that it was for the State party alone to decide whether relevant legislation was required or whether it would be open to the views of the Committee on the need for legislation. The questions above all related to the intent of the reservation, which continued to be unclear.

51. Noting that the state of emergency had been lifted in certain districts, he expressed the hope that the State party would find it possible to do so in the remaining districts. He had not heard any response to his questions concerning the situation of the hill tribes in the north, specifically the laws regarding forestry, the extent to which the legislation outlawed their very existence in the forest and the problems that ensued as a result, especially obstacles to their obtaining citizenship.

52. **The Chairperson**, speaking as a member of the Committee, said that article 4 did not necessarily entail adopting legislation, as the aims of the article might be achieved through other means such as policies or the establishment of traditions or customs.

53. **Mr. Diaconu** said that he took issue with the statement made by the Chairperson. The fact that the legal system of the State party was dualist meant that the country needed legislation in order to implement the Convention. Almost all the articles necessitated legislation so that they could be implemented. Furthermore, article 2 required States parties to use appropriate means, including legislation, to bring racial discrimination by any persons, group or organization to an end. In other countries the Convention could be

invoked directly. As that was not the case in Thailand, legislation was in fact needed. He also referred to the rights mentioned in article 5, for which legislation was required to prevent racial discrimination. While the delegation had mentioned various laws covering some of those rights, the State party should review the areas where the relevant legislation was lacking in order to bring its domestic law into line with the Convention.

54. He failed to understand why paragraphs 27 and 30 had been introduced into the report as they concerned citizens of other countries. Whether or not colonial empires had been just or humane in their demarcation of borders in the past was irrelevant. Thailand could promote respect for the rights of the persons referred to in the paragraphs by inquiring into the policies of the States concerned. The country could also simplify its procedures for granting citizenship to persons of Thai ancestry who wished to return. Lastly, he urged the State party to find a solution to the problem mentioned in paragraph 29 of the report involving 10,000 persons of Thai descent from Cambodia displaced since the 1970s. Such a solution was long overdue.

55. **Mr. Muntarbhorn** (Thailand) said that the delegation would convey to the Government the Committee's concern regarding the reservation and declaration. One reason for the reservation might be that a group had submitted a bill on discrimination in general at the time of the signing of the Convention by Thailand, which in the end had not been passed. Nevertheless, the delegation would be emphasizing the need for legislation to provide for protection, prevention and remedies when it reported back to the Government. Like Committee members, they had to deal with politicians and parliamentarians. Many on the delegation were intermediaries who had to negotiate with members of the legislative and executive branches. He therefore hoped that the Committee would send a message to them in particular in its concluding observations.

56. **Mr. Gongsakdi** (Thailand) said that scientific means were currently used to survey and properly demarcate the national parks and forest reserves. Aerial, on-site and other surveys had permitted the authorities to identify areas that had been subject to degradation and improper land use. Ethnic groups were allowed to remain in the areas and were not penalized for doing so provided that they did not undertake activities that were harmful to the integrity of the national parks. The measures that appeared to affect specific ethnic groups were the result of greater vigilance being paid to cross-border movements and illegal activities in the border areas, which were well documented, and were taken without any regard for ethnicity or status. Furthermore, the methods used in addressing disputes had been peaceful and incremental, ranging from organizing meetings and forging friendly relations to reaching zoning arrangements with villagers.

57. Turning to the concerns raised over the various fines imposed for causing damage to national parks, he said that the fines had been applied without discrimination and were civil rather than criminal penalties. As the fines had been calculated according to a scientific and economic formula partly based on the cost of the minerals extracted, recorded increases in temperature and the time required for forest regeneration, they were only partly related to the wider issue of climate change. The relevant policies had been widely debated and would remain under review. The problem raised concerning the displaced persons would be addressed by the new Nationality Act of 2012, covering some 18,000 persons.

58. **Ms. Crickley** said that she remained concerned by the reports regarding the situation in the southern border provinces and the ways in which racial discrimination was experienced there. It was not clear whether the State party had put an end to the practice of blacklisting persons suspected of involvement in the insurgency. She was also concerned at the appearance of torture or inhuman treatment and of varying levels of protection for people. Noting that the application of fines without discrimination could in fact be discriminatory, she asked whether the State party would consider reviewing the National Park Act and National Forest Reserve Act in order to ensure that there was no

discrimination and that the rights of peoples who had lived in the forest areas for a very long time were protected along with the environment. The latter two issues should not be pitted against each other. Lastly, she remained extremely concerned about the rights of migrant domestic workers, in particular their reproductive health rights. Noting the honest response concerning the Government proposal to deport migrant workers who became pregnant, she urged the delegation to ensure that that proposal did not go any further, as it was well beyond the bounds of human rights law and the Convention.

59. **Mr. Amir**, noting that the State party used the term “displaced person” instead of “refugee”, wondered what was the current legal status of Hmong people living in Thailand who had chosen not to return to their country of origin. It was not clear whether they enjoyed the right to employment or housing, and whether their children attended school or were covered by the health-care system.

60. **Mr. Lindgren Alves** said that the delegation should not leave the meeting with the impression that the Committee had a monolithic position on terminology. Terminology in the context of the work of the Committee was a matter not only of anthropology but of international human rights law as well. The question of minorities, ethnic groups and indigenous peoples was delicate. Noting the explanation for the failure to use the word “refugees”, he said that there was no international instrument on minorities. Indigenous peoples, on the other hand, were entitled to very specific rights. Lastly, self-identification was among the criteria most applied in the Committee, although not the only one. The word “mestizo” was used by some States while others considered that the term masked some form of discrimination. Terminology was thus not as simple as it seemed.

61. **Mr. Gongsakdi** (Thailand), replying to the question concerning the National Park Act, said that the Constitutional Court had considered whether such laws encroached on human rights and found that they did not. However, such issues deserved consideration. More work needed to be done to promote the rights of women migrant workers. With respect to the Hmong people, he said they were found in many countries. The Hmong people who remained in Thailand were Thai citizens and enjoyed the same rights as other Thai citizens.

62. **Mr. Preecha** (Thailand) said that the persons arrested in connection with the events of 2004 had been detained in accordance with the law, without any discrimination. Local and religious leaders and the family members of the persons affected were informed of their arrest. Only 109 persons had been arrested since January 2012, which reflected the caution that had been exercised by the law enforcement and security agencies. Remedial measures had been provided to persons who had been arrested and subsequently released when they were found to be not guilty. The Government no longer had a blacklist. There had been no substantiated complaints of torture or ill-treatment in the previous two years. The Government was currently assessing whether to lift the state of emergency in certain areas, including by soliciting the views of the local people concerned.

63. **Mr. Huang Yong’an** (Country Rapporteur), noting the valuable questions raised by Committee members concerning in particular the human rights situation in the southern provinces, ethnic minorities such as the hill tribes and vulnerable groups such as women, children, migrant workers, stateless persons, refugees and asylum seekers, said that the dialogue had been frank, constructive and useful. The exchange of views had enabled the State party to learn more about the work of the Committee and the Convention and could also be helpful in improving the human rights situation in the country. Commending the State party on its combined initial to third periodic reports, he trusted that future reports would be even better.

64. **Ms. Suwanjuta** (Thailand) said that her delegation was fully aware of many of the issues and concerns raised during its intense discussions with the Committee. The

preparation of the report had prompted the Government to seek ways of addressing the challenges concerning the human rights situation of various ethnic groups, persons with problems involving their status, migrant workers, displaced persons and other non-citizens in the country. Thailand would ensure the continued and meaningful participation of all stakeholders in the process of implementing the Convention, including Government agencies, the National Human Rights Commission, civil society organizations, academic institutions and, most importantly, members of various ethnic communities themselves. The Convention had brought hope to many people in Thailand. Her Government intended not to let them down.

*The meeting rose at 1.05 p.m.*