



Convention on the Rights of the Child

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Committee on the Rights of the Child

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Optional Protocol on the involvement of children in armed conflict

List of issues concerning additional and updated information related to the consideration of the initial report of Thailand (CRC/C/OPAC/THA/1)

Addendum

Written replies of Thailand*

1. At the outset, Thailand wishes to underline that the situation in the Southern Border Provinces (SBPs) does not meet the criteria to be regarded as a situation of armed conflict, in accordance with international humanitarian law, for the reasons set out below.
2. First, no single group or organization has claimed responsibility for, or involvement in, the attacks that have occurred in the SBPs. There have never been specific claims on the existence of an organized insurgent group or groups, which are operating against the Government;
3. Secondly, the perpetrators of the violence in the SBPs operate in secrecy. There is neither any information indicating the operation of a structured military-like chain of command, nor any indication that can reveal the identity of the leaders of these groups;
4. Thirdly, there are no areas in the SBPs which are under the control of, or that are claimed to be, areas controlled by any groups; and,
5. Lastly, violence is still limited to certain areas, and is sporadic in nature. Therefore, the acts of violence are essentially criminal offenses.
6. Thailand attaches great importance to addressing the situation in the SBPs over which the Committee on the Rights of the Child has also expressed its concerns, and

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Thailand is pleased to provide the Committee with information on the following issues or any other matters with a view to protecting and developing our children in line with the Optional Protocol.

Reply to the issues raised in paragraph 1 of the list of issues (CRC/C/OPAC/THA/Q/1)

7. The National Child and Youth Development Promotion Commission, chaired by the Prime Minister with the Ministry of Social Development and Human Security (MSDHS) as the secretary, is the national mechanism for coordinating the implementation of the Optional Protocol among all relevant sectors, and monitoring the results thereof. The Sub-Committee on Child Rights is established under this Commission, and has responsibility for the implementation of the Convention on the Rights of the Child (CRC) and both Optional Protocols to the CRC. The Sub-Committee comprises representatives from the Government, private sector and international organizations, namely, Ministry of Defence, Office of the National Security Council, Ministry of Interior, Ministry of Foreign Affairs, Ministry of Education, Ministry of Justice, Ministry of Information and Communication Technology, Ministry of Public Health, National Human Rights Commission, local administrative organizations, Centre for the Protection of Children's Rights Foundation, Foundation for the Better Life of Children, United Nations Children's Fund (UNICEF), and boy and girl representatives.

8. There is also a National Child Protection Committee, which is chaired by the Minister of Social Development and Human Security and consists of representatives from the relevant organizations and experts. The Committee is responsible for proposing policies, plans, budgets and measures for the welfare, safety protection and behavioural promotion of children. Provincial child protection committees have been established in 77 provinces, and have the responsibility for coordinating child-related operations at the regional level.

Reply to the issues raised in paragraph 2 of the list of issues

9. The national law governing judicial procedures against persons who recruit children aged below 18 years, for the purpose of having an active part in armed conflict, is the Child Protection Act of 2003. The Act stipulates in Section 26 that a person is prohibited from: (1) taking or omitting any action which results in the torture of a child, physically or mentally; or (2) forcing, threatening, inducing, encouraging or allowing the child to behave improperly, or in a manner that is likely to be a cause of wrongdoing; or, (3) using, employing or asking the child to perform work or commit any act that is likely to be physically or mentally harmful to the child, affects his/her growth, or hinders his/her development.

10. Pursuant to Section 78 of the Act, any person who violates Section 26 shall be subject to punishment by imprisonment for a term of no more than 3 months, or a fine not exceeding Baht 30,000. A person who involves a child, aged below 18 years old, in armed conflict which results in physical and mental injuries to the child, is also regarded as having committed an offence of battery and, according to Sections 295-298 of the Criminal Code, shall be liable to imprisonment for a term of between 6 months to 10 years, or a fine not exceeding Baht 6,000, or both. In the case that such act is conducted by compulsion or deprivation of freedom, it is also regarded as an offence against liberty, pursuant to Sections 309-310 of the Criminal Code, and the punishment for such offence is imprisonment for a term of no more than 3 years, or a fine not exceeding Baht 6,000, or both. In addition, a person who does not personally commit the offence, but who causes another person to commit such offence, whether by use, compulsion, threat, employment, asking, inducement or encouragement, shall be guilty, pursuant to Section 84, as the instigator, and shall be subject to punishment as if he/she has committed the offence

him/herself. Any person who assists, or facilitates, other persons to commit any offence, whether prior to or at the time of the offence, shall be guilty, according to Section 86, as a supporter, and will be subject to two-thirds of the punishment for such offence.

Reply to the issues raised in paragraph 3 of the list of issues

11. Thailand has systematically undertaken measures to prohibit both the formal and informal association of children with *Chor Ror Bor*, as follows:

(a) In November 2009, the Southern Border Provinces Administration Centre (SBPAC) issued a clear directive on the minimum age requirement for *Chor Ror Bor* to the governors of the three SBPs. If any member of *Chor Ror Bor* is found to be under 18 years of age, that person must be replaced immediately by a person aged above 18 years. If relevant officers are found to have violated the said directive, he/she will also be penalized;

(b) In August 2010, the Department of Provincial Administration, under the Ministry of Interior, issued a clear directive on the minimum age requirement for *Chor Ror Bor* (Letter No. MorThor 0308/W 18, dated 4 August 2010) to the governors of all provinces. The directive contains strict instructions to the *Chor Ror Bor* selection committees to clearly prohibit children aged under 18 years from being recruited to the *Chor Ror Bor* under their application processes. Moreover, the directive also instructed district offices to verify the list of *Chor Ror Bor* members already officially appointed. If any *Chor Ror Bor* member is found to be under 18 years of age, his appointment will be revoked;

(c) On 28 February 2011, the Ministry of Interior issued the Revised Ministry of Interior Regulation on Officials of the Security Unit to Protect and Maintain Peace and Order in a Village (No. 2) 2011 which specifically includes the minimum age requirement of over 18 years before any person can be accepted to the *Chor Ror Bor*; and,

(d) The Ministry of Interior has carried out inspections of *Chor Ror Bor* in the responsible areas, and found that no children under 18 years of age have been recruited, either formally or informally, to become a member of *Chor Ror Bor*. The SBPAC has also carried out inspections in 5 SBPs, and found that no children under the age of 18 have been recruited to become members of *Chor Ror Bor*.

12. In order to provide the utmost protection for children, the Ministry of Interior has dispatched teams to carry out regular inspections, and has ordered the responsible units to strictly comply with the Regulation, and to ensure that children are not brought into *Chor Ror Bor* checkpoints and bases, are not involved in patrols, and do not have access to weapons and ammunition.

Reply to the issues raised in paragraph 4 of the list of issues

13. The Thai Government has looked into this matter and found that there is no verified information which confirms the involvement of children in the activities of the perpetrators of violence in the South. Even representatives of other countries and the UN Country Team, who have made regular visits to the SBPs cannot confirm such alleged involvement. Nevertheless, Thailand has made consistent efforts to prevent all forms of involvement of children with such groups, under the guidance of the Plan for the Development of the 5 SBPs Special Areas for the years 2009 - 2012, as well as the Educational Development Plan in the SBPs covering the period between 2010- 2012. Examples of policies and projects which have been carried out in accordance with the two Plans are as follows:

(a) The provision of quality education based on cultural diversity in line with the identity, way of life and needs of the communities, including the promotion and creation of opportunities for persons to receive basic education. Previous projects/activities to provide

access to education for children in the SBPs include the development of a bilingual educational system (Thai and the local Yawi languages), the promotion of Islamic teaching centres in Mosques (*Tadika*), the development of Islamic teachings in public schools, Thai language teaching, exchange programmes in Thailand and overseas, cooperation activities to empower children, youth and communities in the SBPs, income generating activities during school holidays, organization of activities to promote peace in schools (integrating a curriculum on peace in the educational system), exemption of tuition fees for youth in the SBPs, which is a collaborative effort of public and private universities in various regions of the country, and the provision of a personal allowance for participants under the higher education scholarship project for the development of the SBPs, which provides 1,000 scholarships each year;

(b) Training to raise knowledge and awareness amongst youth, so that they adopt a positive attitude to lead their lives in a constructive manner;

(c) The organization of a project to develop relations with the communities in order to enhance understanding among educational organizations, communities and schools;

(d) The ‘*Yalannanbaru* project’ which aims to prevent and address problems of narcotic drugs amongst youth who are at risk in the three SBPs, through the provision of training which is aimed at addressing the harmful effects of drugs on youth who are involved in drugs, and the programme to enhance the role of Mosques in the provision of assistance to victims of drug-abuse and the prevention of drug problems, by raising awareness of the danger of drugs, and preventive measures for participating families, based on the principle of peace, community, screening and social measures;

(e) The establishment of the Child and Youth Councils, in accordance with the National Child and Youth Development Promotion Act of 2007, with an objective to encourage the participation of children and youth in child and youth development activities in the area, and to serve as a learning centres for academic knowledge, educational activities, recreation activities, and culture in their localities. The councils have been established in every province and district, and also in 35 sub-districts in Narathiwat Province (representing 45.4 percent of the total sub-districts in the province), 113 sub-districts in Pattani Province (representing 98.26 percent of the total sub-districts in the province), and 38 sub-districts in Yala Province (representing 65.5 percent of the total sub-districts in the province);

(f) The promotion of child and youth participation in judicial procedures, such as the raising awareness on justice in youth project and the power of cooperation to strengthen children, youth, families and communities in the SBPs project; and,

(g) The “*San Jai Thai Su Jai Tai* Project”, which was funded by the General Prem Tinsulanonda Foundation, in collaboration with the Bangkok Metropolitan Administration, has provided home stays in Bangkok and nearby provinces for children and youth from five SBPs. The project aims to develop and enhance the children’s vision, skills, knowledge, life experience and their way of thinking to enable them to become good community leaders in the future. The children also take part in activities that instill good relationships between youth and their families, as well as a sense of love and solidarity, which will bring about attitudes conducive to becoming a responsible adult and citizen. So far, 970 children and youth have participated in this project.

14. In addition, the Ministry of Social Development and Human Security is considering the establishment of a Sub-Committee on the Protection and Development of Children and Youth in the Southern Border Provinces (SBPs), which will serve as an integrated mechanism responsible for studying and analyzing the situation of violence against children in the SBPs, preparing an action plan for the protection and development of children and

youth in the SBPs in an integrated manner, and coordinating, monitoring and evaluating the implementation of such plan.

Reply to the issues raised in paragraph 5 of the list of issues

15. The Royal Thai Navy School of Music was the only academic institute providing education below the undergraduate level that admitted students at, or above, the age of 12. However, since 2010, it has adjusted its curriculum, and is accepting students at, or above, the age of 15. The curriculum consists of basic education, vocational education, and military education, with the main emphasis being on music training. The military education only involves, for instance, basic knowledge on disciplinary and organization management training, in regard to how to pay respect, according to the navy traditions and bugle signals, without any training for combat.

16. The Armed Forces Academies Preparatory School provides upper secondary education, and is open to students who are 14 years of age. Its curriculum consists of: 1) 46 units of compulsory subjects that include Thai language, social studies, health education, science and mathematics; 2) at least 20 units of optional subjects from the following groups of subjects: Thai language, social studies, health education, science-mathematics; and 3) activities, namely, 1 session of activities in accordance with the Regulation of the Armed Forces Academies Preparatory School on the Arrangement of Activities in Armed Forces Academies Preparatory School of 1991 per semester, 2 sessions of guidance activities and/or corrective activities, and/or learning development activities per week/semester, and activities which are selected by the students. The military training involves only the preparation of students before they continue on to military academy at a higher level. Such training includes military characteristics, and basic knowledge of military affairs, which are only theoretical training.

Undergraduate schools

17. The undergraduate schools are open for students at or above the age of 16. These schools are, for instance, the Chulachomklao Royal Military Academy, Royal Thai Navy Academy and Royal Thai Airforce Academy. They provide a 5-year programme which comprises education in various fields such as engineering, science and liberal arts. The military education only consists of basic education such as military communication, combat casualty care, and military disciplinary training, as the students are not soldiers and thus must not be involved in combat.

Reply to the issues raised in paragraphs 6 (a), (b) and (c) of the list of issues

(a) Children below 18 years of age, who are admitted to the Armed Forces Academies Preparatory School, will not be subject to the enforcement of discipline or military sanctions. However, they are subject to the Regulations of the Armed Forces Academies Preparatory School on the Punishment of Students and the Deduction of Behavioural Points of 2008, which sets guidelines for the punishment of students such as probation, sanctions (cleaning the dormitory), and the deduction of behavioural points;

(b) Access to complaint mechanisms and independent investigation for children are under, for example, Section 12 of the Regulation of the Armed Forces Academies Preparatory School on the Punishment of Students and the Deduction of Behavioural Points of 2008, which stipulates that the student may appeal against the punishment order, and Section 24 of the Regulation which provides that the student may appeal against the behavioural point deduction order if he/she deems that such order is inaccurate. The appeal may be lodged in the form of a report to the superior commanders, according to the chain of command, until the report is received by the commander who is of a rank that is higher than the issuer of such order. Apart from the internal complaints procedure, the complaint may

also be lodged with independent mechanisms, such as the National Human Rights Commission of Thailand;

(c) Students in the military academies are not soldiers, and as such, they may not be called up for active military duty during an armed conflict. The Military Service Act of 1954 stipulates in Section 25 that a person who is required to report the receipt of a conscription summons at the district office in his locality, shall be 20 years of age or over.

Reply to the issues raised in paragraph 7 of the list of issues

18. The detention of a child under the age of 18, who is a suspect under Martial Law or the Emergency Decree in Thailand is in compliance with the Criminal Procedural Code, and the Juvenile and Family Court and Juvenile and Family Procedure Act of 2010. In particular, Section 72 of the Act prescribes that the child shall be brought to the Court within 24 hours for an investigation into whether the arrest was lawful, and Section 73 prescribes that the child shall be released upon the Court's decision that the arrest was unlawful. However, in the case of a lawful arrest, the Court may order that the child be placed under the responsibility of his/her parents, guardians, or representative of the organization which has custody over the child, or any organization as the Court deems suitable. In the case that the child may pose a danger to others, or there are other reasonable causes, the Court may order the child to be detained in the juvenile observation and protection centre or other places which are deemed appropriate by the Court.

19. In the case where it is necessary to detain the child suspect under Martial Law or the Emergency Decree for the purpose of interviewing the child in relation to any information or facts, a Court's approval must be sought, and the detention shall be in compliance with the specific procedures, which include separate detention of boys and girls, separate detention from adults; permission for visits from relatives or family; provision of food, water, clothes, medicine; prohibition of physical or mental abuse; and, the provision of a psychologist on occasions, or upon request.

20. Nonetheless, since 2009, there has been no detention of children under 18 years of age under Martial law or the Emergency Decree in Thailand, and the relevant agencies are becoming more aware about children's rights.

21. In addition, in the best interest of the child, the Juvenile and Family Court and Juvenile and Family Procedures Act of 2010 prescribes protection measures for children under detention in Section 86, whereby, if the director of the observation centre sees the possibility of self-reformation in the child or youth without the need for prosecution, the director of the observation centre may recommend that the public prosecutor does not institute the prosecution, but instead, prepares a treatment and rehabilitation plan for the child, as a substitute for prosecution.

22. Other measures are set forth in Section 88 of the Act, which states that if upon the completion of the implementation of the plan, the public prosecutor issues an order not to instigate prosecution action against the child or youth, such order shall be final, and the right to prosecute the criminal case shall be terminated. In addition, Section 90 of the Act states that the Court may order the director of the observation centre, or any person it deems suitable, to prepare a treatment and rehabilitation plan instead of trial and adjudication, if the Court is of view that the child or youth may reform himself/herself. Additionally, Section 92 states that upon completion of the implementation of the treatment and rehabilitation plan, the Court may issue an order for the case disposal and an order in relation to the exhibits. In this case, the right to prosecute the criminal case shall be terminated.

Reply to the issues raised in paragraph 8 of the list of issues

23. Thailand may not invoke the Optional Protocol in order to request other States to surrender any offender to Thailand for prosecution. However, the Optional Protocol may be applied in conjunction with the enforcement of the law, or the extradition agreement which has been concluded between Thailand and other countries, as follows:

(a) Sections 5-11 of the Criminal Code state that “even though such act is committed outside the country, the principal shall remain subject to punishment in the country” which establishes the jurisdiction of Thai courts, with reference to certain categories of crimes;

(b) The Extradition Act of 2008, which lays down the principle of extradition, states that the extradition offence shall be a criminal offence as defined by the law of the requesting country and Thailand, which is to be punishable by death, imprisonment, or other forms of punishment involving the deprivation of liberty for a term of not less than 1 year, regardless of the type or the name of the offence in both countries;

(c) Extradition Treaty agreed upon between Thailand and other countries; and,

(d) Consideration of extradition based on the principle of reciprocity.

Reply to the issues raised in paragraph 9 of the list of issues

24. The Thai Government, in collaboration with relevant international organizations and NGOs, has been assisting displaced persons from Myanmar living in the temporary shelter areas for around 35 years. Currently, there are 102,105 displaced persons, among whom 49,855 are children aged between 0-15 years old. They have been living in 9 temporary shelters located in 4 provinces (Ratchaburi, Kanchanaburi, Tak and Mae Hong Son)¹.

25. Prior to being granted permission to stay in the temporary shelters, the person is interviewed by a team of officers who will prepare his/her initial personal record. After that, the case will be transferred to the Provincial Admission Board (PAB), consisting of the Provincial Governor, military, police, and representatives of the Office of the United Nations High Commissioner for Refugees in Thailand (UNHCR) for consideration. If it is verified that the person has fled fighting, he/she will be granted the status of a “person fleeing fighting”. However, if it is clear that the person cannot remain in his/her country of origin and cannot return there due to political reasons, he/she will also be granted protection as a “displaced person”. Persons who have been screened out may lodge an appeal within 30 days.

26. Furthermore, all children born in all 9 temporary shelters are entitled to birth registration in accordance with the Civil Registration Act of 2008. These children will receive a 13-digit identification number so as to provide them with evidence of their birth and their family relations. This enables better management and care for basic human rights for all persons living in the shelters, including children.

27. Displaced persons, including children living in the temporary shelters, may be returned to their country of origin only when the situation in the country of origin is safe and conducive, when the country of origin has a policy of accepting these persons and only on a voluntary basis on the part of the displaced persons. Up until now, no child has been returned to his/her country of origin. Children along with their families have been resettled in third countries under the third country resettlement programme by the UNHCR. In 2010

¹ Information from the Department of Provincial Administration under the Ministry of Interior in August 2011.

and 2011, 10,916 and 7,913 persons, respectively, have been resettled under this programme.

28. Children of migrant workers under 15 years of age can be registered along with their parents, and will be granted permission to stay in Thailand with them. Once their parents have completed the nationality verification process of their country of origin, these children will acquire the same nationality as their parents.

29. Until now, there has been no report of the involvement or recruitment of displaced children and children of migrant workers in armed conflict.

Reply to the issues raised in paragraph 10 of the list of issues

30. The law in Thailand does not directly prohibit the trading and exportation of weapons to countries in which children are involved in armed conflicts. Nevertheless, there are several internal laws relating to the control, importation and exportation of weapons, or items which may be used as weapons, as follows:

(a) The Firearms, Ammunition, Explosives, Fireworks and Imitation Firearms Act of 1947 prohibits any person from making, repairing, modifying, ordering, importing, possessing, or selling weapons or ammunitions for business purposes, without permission from the local registrar;

(b) The Arms Control Act of 1987 prohibits any person from ordering, importing, producing, or possessing arms (weapons, weapon accessories, chemical substances, radioactive substances, or device or instruments which may be used in combat or warfare), unless permission has been granted from the Permanent Secretary of the Ministry of Defence;

(c) The Royal Decree on the Control of the Export of Arms, Ammunition and War Materials of 1992, issued under the Act on the Control of the Export of Arms, Ammunitions and War Materials of 1953, prohibits the exportation of arms, ammunition and war materials unless there is an agreement with the government, or permission has been granted from the Minister of Defence; and,

(d) The Private Arms Factory Act of 2007 prohibits the private sector from selling or distributing weapons produced by it without permission from the Minister of Defence. In the case of the selling or export of such arms, Cabinet approval is required.

31. Furthermore, Thailand has always supported and observed the United Nations Security Council resolutions on weapon sanctions. It has also supported the 2001 United Nations' Programme of Action on Illicit Trade of Small Arms and Light Weapons. The Ministry of Commerce has issued regulations on the prohibition of the exportation of arms and ammunition to certain countries, as follows:

(a) Notification of the Ministry of Commerce on the Exportation of Arms and Military Equipment to the Somali Republic of 2012;

(b) Notification of the Ministry of Commerce on the Prohibition on the Exportation of Arms and All Kinds of Arms-related Devices and Instruments to the Republic of Congo of 2004;

(c) Notification of the Ministry of Commerce on the Prohibition on the Exportation of Arms and Ammunition to the Democratic People's Republic of Korea, and the Prohibition on the Importation of Arms and Ammunition Exported from, or Originating in, the Democratic People's Republic of Korea of 2007;

(d) Notification of the Ministry of Commerce on the Prohibition on the Exportation of Arms and Ammunition to the Islamic Republic of Iran, and the Prohibition

on the Importation of Arms and Ammunition Exported from, or Originating in, the Islamic Republic of Iran of 2007;

(e) Notification of the Ministry of Commerce on the Prohibition on the Exportation of Arms and Ammunition to the Republic of Sudan of 2011;

(f) Notification of the Ministry of Commerce on the Prohibition on the Exportation of Arms and Arms-related Materials to the Republic of Cote d'Ivoire, and the Prohibition on the Importation of Uncut Diamonds from the Republic of Cote d'Ivoire of 2011; and,

(g) Notification of the Ministry of Commerce on the Prohibition on the Exportation of Arms and Ammunition to the Republic of Liberia of 2011.

32. In addition, Thailand has developed a system to control the exportation of dual-purpose goods, which may be used for both commercial and warfare purposes, to ensure that such goods are not used for the development or production of Weapons of Mass Destruction (WMD) for terrorist use. The control system includes, for instance, the inspection of purchasers to verify whether they are in the risk group; the preparation of a list of risk groups for the purposes of trade monitoring or for the prohibition of conducting trade with these purchasers; the requirements of notification or permission from the Government; the development of goods database; and, raising awareness on this matter in the industrial sector.
