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Committee on Economic, Social and Cultural Rights Fifty-fifth session

Summary record of the 29th meeting

Held at the Palais Wilson, Geneva, on Friday, 5 June 2015, at 10 a.m.

Chairperson: Mr. Sadi

Contents

Consideration of reports (*continued*)

- (a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Combined initial and second periodic reports of Thailand (*continued*)

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The meeting was called to order at 10 a.m.

Consideration of reports *(continued)*

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant *(continued)*

Combined initial and second periodic reports of Thailand (continued)
(E/C.12/THA/1-2; E/C.12/THA/Q/1-2 and Add.1; HRI/CORE/THA/2012)

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

2. **Ms. Kanarat** (Thailand), responding to questions put by Committee members at the previous meeting, said that section 34 of the draft Constitution prohibited all forms of discrimination on grounds of race, language, sex, gender, age, disability, physical or health condition, personal status, economic or social standing, religious belief, education or training, or political opinion. The Rights and Liberties Protection Department of the Ministry of Justice was responsible for safeguarding the rights of human rights defenders and had prepared specific guidelines in that regard which it was hoped would shortly be introduced at the national level. Human rights defenders and their families were also covered by the Witness Protection Act and could request special police protection if they felt their lives or safety were at risk.

3. **Ms. Benjasil** (Thailand) said that, despite the current political challenges facing the country, the Government continued to fulfil its obligations under the Covenant. It had launched a third national human rights plan in November 2014 and had adopted numerous laws to strengthening the protection and promotion of human rights. Efforts were also under way to amend the Criminal Code to strengthen the provisions on child labour and exploitation and to increase the amount of support provided to persons with disabilities and other vulnerable groups, such as older persons and street beggars. The total budget allocated for such activities amounted to US\$ 20 million.

4. **Ms. Patarachoke** (Thailand) said that, while the country was not yet party to the Convention relating to the Status of Refugees, it had hosted a considerable number of refugees and asylum seekers since the 1970s and had provided protection and support, as appropriate. The Government worked in close partnership with the Office of the United Nations High Commissioner for Refugees to identify potential asylum seekers and victims of human trafficking and had held a special meeting on irregular migration in the Indian Ocean on 29 May 2015 in order to coordinate regional sea search and rescue operations and address the root causes of irregular migration.

5. **Mr. Suriboonya** (Thailand) said that the national police force had established an ad hoc committee to conduct investigations following the discovery of a mass grave of Rohingya Muslims at an abandoned human trafficking camp near the Thai-Malaysian border. Charges had been brought against a number of local and national police and military officers, and the identification of bodies using DNA samples had begun. Surviving victims had been sent to a shelter and were receiving appropriate medical and psychological support. Going forward, the Government would hold a regional round table in June 2015 for the purpose of formulating more robust human trafficking prevention strategies and strengthening information-sharing between States.

6. **Mr. Thanghong** (Thailand) said that the Government was considering ratification of the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organise Convention of 1948 (No. 87) and the ILO Right to Organise and Collective Bargaining Convention of 1949 (No. 98) and had prepared bills that would amend the Labour Relations Act and the State Enterprise Labour Relations Act to bring

them into line with those Conventions. It intended to ratify the ILO Maritime Labour Convention, the ILO Discrimination (Employment and Occupation) Convention of 1958 (No. 111) and the ILO Promotional Framework for Occupational Safety and Health Convention of 2006 (No. 187) by the end of 2015. The amendments that were to be made to the Labour Relations Act would give migrant workers and civil servants the right to join trade unions and would give domestic workers the right to organize and engage in collective bargaining. Bills had also been prepared that would amend the State Enterprise Labour Relations Act to give State enterprise workers the right to strike so long as the strikes would not have any negative impact on public services.

7. The Government had taken steps to encourage informal-sector workers to join the national social security scheme and to improve informal-sector working conditions. It had amended the Social Security Act to extend its coverage to include domestic workers and had established a fund that provided low-interest loans to all types of workers. Some US\$ 15 million in loans had been approved between September 2014 and May 2015.

8. **Mr. Roujanavong** (Thailand) said that the Labour Protection Act prohibited sexual harassment in the workplace between managers and their staff, but not harassment between co-workers or involving customers. In order to address that gap in the law, the Government had recently amended section 397 of the Criminal Code to include instances of sexual harassment involving any person in any setting. Under the amended provisions, acts of sexual harassment committed by persons in a position of power or authority were subject to harsher punishments and could result in imprisonment in the very worst cases. Persons experiencing sexual harassment could report their cases directly to the police or could use the national 24-hour hotline.

9. **Ms. Khomepatr** (Thailand) said that efforts had been made to strengthen the national social security system since 2010, and additional financial support in the form of grants and allowances had been provided to low-income families, informal-sector workers, older adults and persons with disabilities. An emergency hardship fund had also been established. Persons with disabilities were entitled to interest-free loans of up to US\$ 1,200 to start up small businesses, and their representative organizations could apply for grants of up to US\$ 30,000 for disability-related projects. In 2014, 10,000 entrepreneurs and over 300 associations had received those benefits. Under the Persons with Disabilities Empowerment Act of 2007, public- and private-sector organizations that failed to employ the stipulated number of persons with disabilities must pay a fine for each such post that they should have filled but had not. That money was paid into the Fund for the Empowerment of Persons with Disabilities. A website had been launched on which a list of accessible job opportunities could be found. The Government was working to identify employment opportunities for persons with disabilities and to provide vocational training to them.

10. **Mr. Thanghong** (Thailand) said that the Special Economic Zones had been set up in order to enable migrant labourers to cross into Thailand without a passport and to return to their home country at the end of the working day. Those workers were issued a border pass and work permit and were entitled to earn the national minimum wage, to receive the same treatment as that accorded to Thai nationals and to enjoy comprehensive legal protection. Under the Labour Protection Act of 2008, the minimum wage was set on the basis of a range of factors, including the cost-of-living index and the rate of inflation. Domestic and temporary agricultural workers were not covered by the minimum wage, however, owing to the nature of their jobs and financial constraints. That law protected the rights of Thai nationals, stateless persons and legal or irregular migrant workers on an equal basis, with no distinction being drawn on the basis of gender or nationality. In cases where employers violated the provisions of the Labour Protection Act, complaints could be filed with the labour inspection service. In 2014, nearly 1,900 migrant workers had been awarded a total

of approximately US\$ 500,000 in unpaid benefits and, during the current year, another 710 migrant workers had received around US\$ 200,000 in unpaid benefits as at 14 May 2015. Efforts were being made to regularize the situation of migrant workers who did not have the required permits in order to safeguard their right to decent work and ensure their occupational health and safety. Between June and October 2014, around 1.6 million migrants and their dependants had been registered and had received temporary work and residence permits. Once the necessary information had been provided by their countries of origin, those migrants and their dependants would be entitled to apply for a full work permit and a passport and to enjoy all the benefits and rights provided for under Thai law. The registration scheme enabled the authorities to monitor migrants' working conditions and offer them greater protection. The Government also intended to amend a number of memorandums of understanding that it had signed with neighbouring countries in order to combat trafficking in persons, ensure greater transparency in relation to the employment of migrant workers and enhance cooperation in such areas as skill development and administrative matters.

11. Around 2 million persons were protected by the Home Workers Protection Act of 2010, which provided for equal pay for men and women, required the use of written employment contracts and prohibited the assignment of hazardous tasks to such employees. An official survey was currently being carried out with a view to setting a minimum wage for home workers. In the fishery sector, action was being taken to put a stop to the use of trafficked persons to work on fishing vessels. The Ministry of Labour Regulation for the Protection of Labourers in the Sea Fishing Industry of 2014 was being revised in order to prohibit the employment of persons under 18 years of age, ensure that employees had written contracts, further limit working hours and provide minimum-wage enforcement mechanisms. The revised regulation would also make it mandatory for employers to submit employment, wage and holiday pay records and to bring their workers before the labour inspection service on an annual basis to confirm that they had taken up employment voluntarily. Since December 2014, labour inspections covering around 11,000 workers and 926 vessels had been carried out. The vessels of owners failing to comply with the regulations were confined to port until compliance was achieved. A number of shipowners were to be prosecuted for child labour offences. The Ministry of Labour was working to enforce a 2012 Supreme Court ruling that established that employers must provide the same treatment and benefits to subcontracted workers as they did to their direct employees.

12. As mentioned briefly in paragraph 77 of the State party's replies to the list of issues (E/C.12/THA/Q/1-2/Add.1), the Government was striving to develop the local economy and to provide vocational training and job placement services for youth in southern Thailand in order to reduce unemployment in that region. Job creation schemes were also being introduced. In 2015, US\$ 4 million had been allocated for the promotion of education and understanding across cultural boundaries. As part of that initiative, scholarships had been provided and tuition fees waived. In addition, US\$ 11 million had been injected into the local economy in 2015 to encourage further investment. Over 1,900 villages had been selected to take part in development projects, and incentives had been offered to attract private investors to the area.

13. **Mr. Prakongsai** (Thailand) said that informal-sector workers and their dependants were covered by the universal health-care system. Some 1.6 million documented migrant workers were participants in a Ministry of Labour social insurance scheme, while approximately 200,000 of their undocumented counterparts had access to a number of Ministry of Public Health migrant health insurance schemes. Migrant workers would become eligible for universal health insurance coverage once the Association of Southeast Asian Nations (ASEAN) Economic Community had been launched in 2015.

14. **Mr. Martynov** asked whether the payment of a fine absolved companies of their duty to recruit persons with disabilities. Had he understood correctly that 3.5 million informal-sector workers had signed up for a voluntary insurance package?

15. **Ms. Shin** asked for information on the definition of sexual harassment contained in the new Criminal Code, as she would be interested to learn whether or not it covered verbal and online harassment and stalking. Statistics on the number of convictions handed down for sexual harassment under the new Code would be appreciated. It might be better to incorporate the Criminal Code provisions on sexual harassment involving co-workers or customers into the Labour Code or to adopt a separate, specific law on harassment in the workplace. It would also be a good idea to introduce mandatory training on sexual harassment in the workplace.

16. **Mr. Uprimny Yepes** said that the State party should consider transposing the contents of the international human rights treaties to which it was party into the draft Constitution so that the nation's courts could apply those provisions directly. The interim Constitution was unclear regarding the right to redress for violations of economic, social and cultural rights; that lack of clarity could lead to abuses of power. Referring to the case of Mr. Hasan Useng, which had been discussed in one of the alternative reports submitted to the Committee, he asked what guarantees were in place to protect the right of human rights defenders to carry out their work and the right of members of the public to seek redress for violations of their rights.

17. **Mr. Schrijver** said that the State party's interpretative declaration regarding article 1 of the Covenant stated that the term "self-determination" was interpreted in line with the Vienna Declaration and Programme of Action of 1993, and the delegation had stated that the interpretative declaration had been introduced to clarify the State party's position that self-determination should never be associated with secession. The Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations set out the principle of self-determination and provided that, in situations other than those created by colonialism, apartheid or foreign domination, it went hand in hand with respect for the principle of sovereignty and territorial integrity. He therefore called upon the State party to re-examine the question as to whether it was necessary to maintain its current declaration in respect of article 1. He would also appreciate a reply to his question concerning the State party's stance on the International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work of 1998.

18. **Ms. Bras Gomes** (Country Rapporteur) said that she had not heard a reply to her question about cross-border human rights violations by Thai companies. In particular, she wished to know what the State party's stance was with regard to its extraterritorial obligations as a member country of ASEAN. She would like to know what steps the Ministry of Labour had taken to give effect to the interpretative decision issued by the Supreme Court in 2012, in which it had ruled that, under the Labour Protection Act, subcontracted employees were entitled to the same benefits and conditions as regular employees. She would also be interested to hear the delegation's comments on what support was given to domestic workers who were not covered by the Home Workers Protection Act. She also wished to know whether civil servants had the right to strike and whether there was a labour law that applied to employees of quasi-governmental bodies.

The meeting was suspended at 11.25 a.m. and resumed at 11.40 a.m.

19. **Mr. Roujanavong** (Thailand) said that sexual harassment was classified as a petty offence under the Criminal Code and that cases could therefore be settled out of court, provided that the perpetrator admitted his or her guilt and agreed to accept the corresponding penalty. The amended Criminal Code contained a broader definition of

sexual harassment than the Labour Protection Act, but workers could choose to file charges under either law. As to the downgrading of Thailand from tier 2 to tier 3 in the 2014 Trafficking in Persons Report of the United States Department of State, the methodology used to produce that ranking had been questioned by civil society organizations in Thailand and, in his opinion, political considerations had influenced the findings. The Government viewed the fight against human trafficking as a priority and was stepping up efforts to put an end to trafficking.

20. **Mr. Suriboonya** (Thailand) said that, regardless of the tier in which it was placed, Thailand could not be accused of lacking the political will to combat human trafficking. The Government would continue to work to eradicate it.

21. **Mr. Muntarbhorn** (Thailand) said that the Administrative Court had started to cite international human rights instruments, and the Constitutional Court had referred explicitly to the Convention on the Rights of Persons with Disabilities in one of its judgements. Nevertheless, more needed to be done to encourage ordinary courts to follow suit. The drafting of a new Constitution provided an opportunity to strengthen guarantees of the right to an effective remedy. A bill currently before parliament contained a definition of torture that was in line with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and provided for appropriate remedies. As to the interpretative declaration that Thailand had entered in respect of article 1 of the Covenant, the sticking point concerned external, rather than internal, self-determination, and he would like to invite the Committee to provide guidance and suggestions as to how to proceed.

22. **Ms. Patarachoke** (Thailand) said that all the member Governments of the ASEAN Economic Community were committed to the protection of human rights and the environment. The Government of Thailand advocated responsible investment and respected the laws of host countries. Several infrastructure projects had been redesigned in response to complaints from nearby communities. Most Thai companies that invested abroad were listed on the stock exchange and were monitored by the Securities and Exchange Commission. Annual awards were handed out to promote good corporate governance and social responsibility. Many large Thai companies worked closely with partners in host countries to grant scholarships and launch local development projects.

23. **Ms. Wuttisorn** (Thailand), giving a brief history of the Dawei port project, said that an initial framework agreement between the Myanma Port Authority and Ital Thai Industrial Company, which had been granted a concession to run the project, had lapsed in 2013. Under the agreement that had replaced it, a commitment had been made to expedite the relocation and compensation of local villagers, with all costs being borne by the concessionaire, which would appoint an independent relocation expert. The agreement stipulated that the relocation process should be conducted in line with international standards and practice.

24. **Ms. Khomepatr** (Thailand) said that public and private companies that were unable or failed to meet the requirement that at least 1 per cent of new employees should be persons with disabilities could adopt alternative measures, such as contributing to a fund for the empowerment of persons with disabilities or granting concessions for the operation of commercial activities on their premises. Yet even though it did provide that kind of leeway, the Ministry of Social Development and Human Security ensured that companies were fully aware of the importance of hiring persons with disabilities.

25. **Ms. Kanarat** (Thailand) said that all persons, regardless of their nationality, had the right to request reparations for harm caused by the actions of public or private companies or the State. Complaints could be filed with various bodies, including the National Reform Council and the Administrative Court. An environmental division of the Administrative Court had handled over 5,000 environmental disputes since its inception in 2011. In

January 2015, the Supreme Court had ordered a limestone mining company to pay compensation to villagers in Songkhla Province whose homes had been damaged and who had suffered from the effects of noise pollution and experienced health problems due to dust inhalation.

26. **Mr. Thanghong** (Thailand) said that the Government espoused the four fundamental principles and rights enshrined in the International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work and would ratify the remaining ILO conventions covered by the Declaration once the necessary amendments had been made in national laws. Additional information about the Home Workers Protection Act would be submitted to the Committee in writing.

27. **Mr. Pillay** said that he would like to know whether the Government of Thailand carried out assessments of its poverty reduction strategy and whether there were poverty reduction programmes that targeted rural areas and, in particular, children and older adults in those areas. If so, how effective were those programmes? He would also like to know what measures were being taken to resolve the housing needs of persons living in makeshift dwellings and to meet all households' basic needs, specifically in terms of water and sanitation. He also wondered what was being done to improve poor, crowded and unhygienic housing in Bangkok. The delegation had not yet provided figures on the number of homeless persons; it would be useful to learn more about the causes and scope of that problem in Thailand.

28. He would appreciate a clarification as to what measures were being taken to prevent encroachments on forest reserves and forced evictions. The delegation had stated that National Council for Peace and Order (NCPO) Orders Nos. 64 and 66 had had no impact on poor persons or persons living on the forest reserves, but the Committee had been told that communities whose members had lived for many years on lands that had subsequently been designated as forest reserves had been evicted without being provided with alternative accommodation or compensation. In other cases, forced evictions had been followed by the destruction of the former settlers' crops. He would like the Government to consider declaring a moratorium on evictions until the United Nations Human Rights Council working group on Thailand had made its recommendations. He had learned that squatters in many districts in Thailand would be subject to eviction as flood prevention works moved forward. Would they be evicted in a manner that was in accord with international standards?

29. **Mr. Schrijver** said that he had been informed that 17 was the legal age for marriage in Thailand, but that children between the ages of 14 and 16 could marry with parental consent, which was a widespread practice in some communities. He had also been informed that, in cases of sexual abuse, girls could marry the perpetrators at as early an age as 13 and that the marriage would release the perpetrators from criminal liability. He would like to know how the Government of Thailand had responded to the recommendation of the Committee on the Rights of the Child that the marriage age should be set at 18, without exception. He wondered if the significant drop in school enrolment after students reached the age of 14 was related to child labour. While commending Thailand for becoming a party to the International Labour Organization (ILO) Worst Forms of Child Labour Convention (No. 182), as well as for its Child Protection Act, he asked whether those laws were strictly enforced, whether compliance was monitored and whether the Government had a strategy for combating child labour.

30. **Mr. Ribeiro Leão** asked whether the Government of Thailand in fact had a nationwide poverty reduction strategy or whether its various anti-poverty programmes were discrete efforts. He would also like to know whether there were programmes in place to inform the general public about the "sufficiency economy" philosophy that was described in the report.

31. **Mr. De Schutter** said that he welcomed news of the formulation of legislative amendments in regard to the offence of enforced disappearance, particularly since there was still no news of the activists who had been attempting to protect members of the Karen people from human rights violations and who seemed to have been disappeared.

32. Information would be welcome on the proposed tax on unused parcels of farmland. It was his understanding that the idea was to use the revenues to finance a land bank fund for landless peasants. There had been no reference to agrarian reforms in the replies to the list of issues and, yet, such reforms were urgently needed in Thailand, where 90 per cent of the land was in the hands of a few individuals and 1.5 million families were obliged to rent arable land. He wished to know what plans the Government had for equitably distributing land as a means of reducing rural poverty.

33. NCPO Orders Nos. 64 and 66, which permitted the authorities to take certain measures to combat encroachment on forest reserves, had reportedly led to the destruction of crops, the intimidation of poor or landless people living on reserve land and forced evictions. The United Nations Human Rights Office for South-East Asia had recently urged the Thai Government to comply with international standards regarding land rights and to rescind those NCPO orders, citing the routing of the residents of six villages in Buriram Province without compensation as one example of the impact of those directives. He would be interested to hear what steps Thailand planned to take to protect the rights of forest dwellers. Did it intend to act upon the recommendations made in the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (A/HRC/4/18, annex 1) and the Voluntary Guidelines on the Responsible Governance of Tenure of the Food and Agriculture Organization (FAO) of the United Nations? Some of the evictions had apparently been triggered by forest emissions reduction projects funded by the World Bank and the United States Agency for International Development (USAID).

34. He would like to know what steps were being taken to ensure that Thai companies operating abroad adhered to the Covenant and to the United Nations Guiding Principles on Business and Human Rights, particularly principles 2, 15 and 17. How were the foreign investment operations of Thai companies regulated, what due diligence obligations did they have in terms of their subsidiaries' activities, and what remedies were available to persons or organizations if companies violated their rights?

35. **Ms. Shin** said that, with reference to article 10, she would like to know whether the definition of the family referred to in the report included LGBT persons. She wondered whether there were provisions for paternal parental leave, with paid social benefits, which, in her view, was essential for the attainment of equality for women. She had been pleased to learn of the Gentlemen against Violence against Women and the White Ribbon campaigns, which could serve as a model for similar programmes in other countries of the region. How many people were involved in those campaigns? It would be useful to know if they were a one-time event or an ongoing programme. She would like to know how the Government went about enforcing the laws prohibiting child labour in the seafood industry, which also apparently employed many undocumented migrant workers from neighbouring countries. Were boat owners subject to prosecution if they employed children?

36. In reference to article 12, and in view of the rising rate of teenage pregnancy, she would like to know whether age-appropriate sex education was offered in Thailand. She also wondered whether the Ministry of Public Health had special arrangements for providing sexual and reproductive health care to indigenous persons, refugees from Myanmar, migrants and LGBT persons. Were those groups involved in health-care policy formulation, implementation and evaluation?

37. **Mr. Atangana** asked whether efforts had been made to expand the Say No to Violence against Women Campaign that had been launched in 2009.

38. **Mr. Uprimny Yepes** said that, with reference to the right to an adequate standard of living, Thailand had one of the world's highest overall incarceration rates and, since women made up about 50 per cent of the prison population, one of the highest female incarceration rates in the world as well, and the prisons were badly overcrowded. It therefore seemed ironic that the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders had been concluded in Bangkok and were known as the Bangkok Rules. Was a strategy in place to increase the use of non-custodial measures as a means of reducing prison overcrowding? With reference to the right to health, he noted that most persons held in Thai prisons were serving time for illegal drug use. The HIV/AIDS rate in Thailand was among the highest in Asia, and many drug users were infected. Had the Government considered introducing harm-reduction strategies, such as the distribution of syringes?

39. **Mr. Kerdoun** said that, although Thailand had met the target for the Millennium Development Goal of eradicating extreme poverty, he understood that poverty levels were considerably higher among the hill tribes and ethnic minorities. He would like to know whether the Government was working to reduce poverty among those groups. He would be interested to know what steps the Government was taking to protect the right of the hill tribes to their traditional lands and to prevent their eviction from those lands.

40. **Mr. Kedzia** said that the situation of the children of refugees and asylum seekers was giving rise to concerns. Thailand had entered a reservation to article 22 of the Convention on the Rights of the Child that translated into a lack of protection for child refugees and asylum seekers. Nor was Thailand party to the 1951 Convention relating to the Status of Refugees. The fact that current immigration laws did not distinguish between migrants and asylum seekers, which further heightened asylum seekers' vulnerability. He also wished to know whether refugees and asylum seekers were covered by the health insurance schemes described in paragraph 19 of the State party's replies to the list of issues.

41. He would be interested to learn what steps were being taken to protect the economic, social and cultural rights of families of long-term detainees, especially in southern Thailand, where prolonged detention was frequent. It would be useful to know the position of the Government with regard to the dispensation of generic medicines, in particular for illnesses requiring expensive treatments. What measures were in place to provide psychological care to former prisoners who had been victims of torture or other forms of ill-treatment?

42. **Ms. Bras Gomes** asked whether the Government had undertaken any recent assessment of the effectiveness of the measures that it had adopted in an effort to curb child sex tourism. She welcomed the passage of the Civil Registration Act, but she understood that not all persons were covered by that law and that there was therefore still a sizeable population of stateless persons in Thailand. She therefore wished to know what other steps were being taken to resolve the situation of stateless persons in Thailand and to provide them with access to basic services. What was the situation with regard to the availability of health services in the southern border provinces? Thailand was to be commended on its achievement of universal health coverage, but she noted that, according to the State party's own assessment, the country's hospitals were overcrowded, and early diagnosis capabilities needed to be expanded in order to reduce the disease burden on society. Finally, she would be interested to learn more about the views of the Government regarding the impact of the NCPO orders and the impact of industrial activity on the environment and the population's health.

The meeting rose at 1 p.m.