



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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**Committee on the Elimination of Racial Discrimination**

**Reports submitted by States parties under article  
9 of the Convention**

**First to third periodic reports of States parties due in 2008**

**Thailand<sup>\*</sup>, <sup>\*\*</sup>, <sup>\*\*\*</sup>**

[28 July 2011]

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\* This document contains the initial to third periodic reports of Thailand due in 28 January 2008.

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

\*\*\* Annexes can be consulted in the files of the Secretariat.

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## **I. Introduction**

### **A. Accession as a State party**

1. Thailand acceded to the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) on 28 January 2003, and the Convention has entered into force for Thailand from 27 February 2003. Upon its entry as a State Party to CERD, Thailand made an interpretative declaration that the articles of CERD will not apply beyond the framework of Thailand's Constitution and Thai laws. The country also made two reservations, Article 4 and Article 22. Article 4 concerns affirmative measures to eliminate the incitement to racial discrimination. Thailand will comply with this Article only when deemed necessary to enact new laws. As for Article 22, Thailand will not be bound to submit cases to the International Court of Justice for consideration regarding the settlement of disputes among States Parties.

2. This Thailand country report has been prepared to meet its obligations under Article 9 of the Convention, which stipulates that every State Party must submit its reports of implementation under the Convention. This should include all relevant measures, be they legal, judicial, administrative, or other which have been put in place by the State Party in order to enforce the Convention. This report is the combined initial report and the second report, and has been prepared in accordance with the guidelines on the form and content of country reports to be submitted by States Parties as set by the Committee on the Elimination of Racial Discrimination.

### **B. Process of report preparation**

3. The preparation of this report involves a process of participation by the government sector, the private sector and the civil society. Such process of participation has been carried out in the form of a Committee and a Task Force under the responsibility of the Department of Rights and Liberties Protection, Ministry of Justice, and through focus groups conducted with representatives of ethnic groups in the regions nationwide. The report preparation involves three steps: setting scope and guidelines for the initial data survey, preparing the report, and presenting the draft report to the public (see details in annex II).

### **C. Initial explanation**

4. This report is the combined initial report and the second periodic report, which were due to be submitted in February of 2004 and 2006 respectively. The report preparation was carried out during 2006–2007, based on the statistical data up to 31 December 2006, and other information on situations and circumstances up to the end of September 2007. However, since the report preparation was extended to 2008, developments of policy and legal framework that occurred during 2007–2008 have been included to make the information about the progress of Thailand's implementation regarding the elimination of racial discrimination as complete as possible. The report preparation follows the United Nations Guidelines as outlined in these documents: HRI/GEN/2/Rev.3 (chap. 4) dated 8 May 2006, CERD/C/2007/1 dated 27 September 2007, and HRI/GEN/2/Rev.5 dated 29 May 2008. It also complies with the general comments, as laid down and endorsed by the Committee on the Elimination of Racial Discrimination. The content of the report consists of two parts: chapter II contains the data on Thailand's demography and ethnic groups, chapter III is an analysis of Thailand's existing laws, regulations and mechanisms, in order

to comply with the core commandments of CERD under Articles 1–7, especially on the points set by the Committee on the Elimination of Racial Discrimination.

5. To date, Thailand has not collected statistical population data that classify ethnic groups in the country's census survey, and does not specify race on its citizens' Identification cards. Therefore, there are no statistical data that classify races by age, group or gender. However, The National Statistics Office has taken interest and consideration in data classifications on particular issues that will benefit certain target groups, e.g. classification of problems encountered by children and youth, women, the disabled, the aging population. There are a number of academic institutions and non governmental organizations (NGOs) both at the national and local levels, which conduct data survey and collection, and manage knowledge on ethnicity in terms of identities, cultures, wisdom and rights of ethnic groups. To name a few, they are Princess Maha Chakri Sirindhorn Anthropology Centre (Public Organisation), Chulalongkorn University Social Research Institute, Law Centre of Thammasat University, Centre for Research on Plurality in the Mekong Region of Khon Kaen University, Institute for Population and Social Research of Mahidol University, Hilltribes Research Institute, Hill Area and Community Development Foundation, Lawyers Council of Thailand, Union for Civil Liberty, Assembly of Tribes People of Thailand, Inter Mountain Peoples Education and Culture in Thailand Association, Association for Network Development of Community-Based Organisations, as well as networks of organizations of ethnic groups in different regions of Thailand. There are also some statistical data on the situations of ethnicity and rights violations in the monitoring reports of the National Human Rights Commission, the Parliamentary Ombudsperson, and some non-governmental organizations. Thailand sees the need to integrate all these data in order to maximize its efficiency in rights protection and to preserve the nation's diversity of ethnicity. These tasks fall under the responsibility of the Department of Rights and Liberties Protection under the Ministry of Justice, established in 2002.

## **II. Baseline data on demography, ethnic groups and alien population in Thailand**

### **A. Demographic situation, ethnic groups and alien population in Thailand**

6. Thailand is situated in Southeast Asia, an area inhabited by a great diversity of people ethnically in the world. The population of Thailand comprises various ethnic groups for over 700 years in the area from the Chao Phraya River flat land delta up to the river's origin on the high plateau of the Northeast (Esarn) and to the upper part of Malayu Strait. According to the research on Ethnolinguistic Maps of Thailand in 2005 to study the combination of ethnic groups of people in Southeast Asia according to their main language families, there are five main language families that belong to a total of 62 ethnic groups (shown in Table 1):<sup>1</sup>

- (1) Tai Language Family with 24 ethnic groups
- (2) Austroasiatic Language Family with 22 ethnic groups
- (3) Sino-Tibetan Language Family with 11 ethnic groups
- (4) Austronesian or Malayopolynesian Language Family with 3 ethnic groups
- (5) Hmong-Mien Language Family with 2 ethnic groups

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<sup>1</sup> See annex I for tables.

7. With such great diversity of ethnic groups, it is difficult to clearly specify whether there is a nation in Southeast Asia which is constituted of a single ethnicity. It is more likely that the diverse ethnic groups of people in this area have co-existed for hundreds of years.

## B. The population of Thailand

8. Thailand has a total population of 62.83 million (31.00 million male/ 31.83 female). Out of this, 22.73 million (36.18%) are urban population, and 40.10 million (63.83%) are rural population who are scattered in different regions of the country, shown as follows:

(data as of 1 July 2008)

<i>Region</i>	<i>Million people</i>	<i>Percentage</i>
Northeast	21.25	33.3
Central (not including Bangkok)	14.91	23.7
North	11.75	18.7
South	8.32	13.2
Bangkok Metropolitan	6.60	10.5

9. Thailand's population census is collected every ten years (the latest in 2000), while a survey on population change is carried out in the period between each population census (five years' period) (the latest one in 2005–2006). There is no classification of population number by racial or ethnic group. As Thailand is a pluralistic society, with a good mix of races and cultures for a lengthy period of time in history, it has a wide diversity in terms of population and culture, making it difficult to specify any single ethnicity directly. It is estimated that 85% of Thailand's population is of Thai ethnicity, which has intermingled with various ethnic groups throughout the years. The rest are other ethnic groups from the five language families and other races found living in Thailand, e.g. Japanese, Korean, Indian, Sikh, Arab, European, etc. and other alien population under Thailand's care and responsibility.

10. The information to be presented in this report on Thailand's implementation of the International Convention on the Elimination of All Forms of Racial Discrimination considers the population groups that may be at risk of losing their rights, having their rights neglected or their human rights violated, especially owing to racial causes. These are people who belong to different ethnic groups, a number of Thais, and alien population. According to the data gathered from the six focus groups organized to hear problems of ethnic groups in the five regions of Thailand in 2006, the situation of problems faced by these people can be classified into four main groups:

- (a) Ethnic Groups – consisting of The Highlands people, The “Chao Lay” or “Sea Gypsies”, the Malayu-descended Thais, and other ethnic groups;
- (b) Displaced Thais;
- (c) Persons overlooked by surveys (“Unsurveyed Persons”), Persons with Identification Status Problem, and Rootless Persons;
- (d) Alien Population – consisting of Displaced Persons of various ethnicities, Migrant Workers, and people who flee from fighting in neighbouring countries.

## 1. Ethnic groups

11. The Department of Provincial Administration, Ministry of Interior originally defined “minorities” (around 1999) as “probably groups of persons without Thai nationality, who are less in number than the original inhabitants of the country and have distinct cultures and traditions; have entered Thailand in different ways, i.e. as illegal immigrants, or granted temporary shelter.” The Department has kept personal history record and issued identification cards for these people, altogether in 18 groups. Later on (since 2005), the following definition was given: “Ethnic Group according to the definition in this Government Operations Handbook means people of other races or nationalities that live among other peoples who are larger in number. This may include groups of people without Thai nationality, who have their own distinct cultures and traditions and who have entered or lived in Thailand in different ways.”

12. By this latter definition, there are 17 minority groups: (1) Vietnamese Displaced Persons; (2)–(4) Chinese Displaced Persons in three sub-groups, namely ex-soldiers of the National Army, Haw or Yunnanese Chinese Displaced Persons and Independent Haw Chinese; (5) Ex Chinese Malaya Communist Militants, or Comrades for the Development of Thailand; (6) Thai Leu; (7) Laotian Displaced Persons; (8) Nepalese Displaced Persons; (9)–(11) Burmese Minority Groups in three sub-groups, namely Displaced Persons, Illegal Immigrants, Displaced Thai Descended Persons with Burmese nationality; (12) Persons on the Highlands; (13) Displaced Persons with Thai nationality from Koh Kong province of Cambodia; (14) Illegal Immigrants from Cambodia; (15) Tong Luang Race (Mlabri); (16) Communities on the Highlands; (17) Illegal Migrant Workers (of Burmese, Laotian, Cambodian nationalities). As for the 18th group — Illegal Immigrants from Burma/Myanmar — this has now been discarded from the definition adopted around 1999. Furthermore, the National Security Council has classified ethnic groups and illegal immigrants into three types (2004), the first type being the persons who fall under Thailand’s policy to grant permanent residence status, the second type are persons who are permitted to stay temporarily, and the last type are people whose status are being sorted out intensively.

13. With regard to the Research on Ethnolinguistic Maps of Thailand which was conducted during 1993–2001 and published in 2005, “ethnic group” is defined as follows: “Ethnic Group or sometimes referred to as “racial group” means a group of people with distinct history, language, culture, tradition or with common way of living, and most importantly, with a shared sense of belonging to the same group or race.”

14. This report classifies ethnicities in Thailand into four main groups by geographical characteristics of locality, way of living, culture and the condition of problems, as follows.

### (a) Persons on the Highlands (details in Table 2)

15. Persons on the highlands are the hill tribes and other groups of people that live on the highlands with the hill tribes. They are minority groups of people who settle in the forests on the highland area from the North down to the West of the country, covering 20 provinces, namely Chiang Rai, Chiang Mai, Mae Hong Son, Lamphun, Lampang, Phayao, Nan, Phrae, Loei, Sukhothai, Phitsanulok, Phetchabun, Tak, Kamphaeng Phet, Uthai Thani, Suphan Buri, Kanchanaburi, Ratchaburi, Petchaburi and Prachuap Khiri Khan (Department of Provincial Administration, 1999, already referenced). The Department of Social Development and Welfare, Ministry of Social Development and Human Security has started to collect data since 2002 and found that there are 10 ethnic groups of hill tribes, other minority groups, and Thais from the lowlands who live together as communities on the highlands. All these people amount to a total of 1.2 million population living in 3,881 villages. Among these are the 10 main ethnic groups of hill tribes, 3,429 groups of

households, 923,257 persons or 186,413 families living in 164,637 households, broken down as follows:

(1)	Karen	438,131	persons
(2)	Hmong (Meo) <sup>2</sup>	153,955	persons
(3)	Mian (Yao)	45,571	persons
(4)	Akha (E-gaw)	68,653	persons
(5)	Lahu (Musur)	102,876	persons
(6)	Lisu (Liso)	38,299	persons
(7)	Sua	22,260	persons
(8)	Kamu	10,573	persons
(9)	Mlabri (Tongluang)	282	persons
(10)	Tin	42,657	persons

16. Other ethnic groups that live with the hill tribes are e.g. Paluang, Tongsu, Kachin, Thai-leu, Yunnanese Chinese, Tai Yai, Cambodian, Chinese, Mon, Burmese, Laotian, etc. These people who are scattered on the highlands are 67,172 persons in number, in 13,221 families and in 11,802 households. Besides, there is a group of Thais from the lowlands who make their living on the highlands. This group amounts to 212,720 persons, in 52,945 families, 50,257 households in 847 villages.

17. The majority of the hill tribes are of Chinese-Tibetan language family group, mixed with people of the Hmong-Mian language family group and the Austro-Asiatic group. The hill tribes are classified, by government terms, into two main groups:

(a) Original hill tribes or “Mountain Thais” – are a group of Thais that are not recorded in the Civil Registration due to an oversight in the survey or out of survey reach because of their remote localities, obstructing them from access to the local authorities. The Regulation of the Central Registration Office B.E. 2535 (1992) and B.E. 2539 (1996) recorded the granting of Thai nationality to these Mountain Thais, while most of them had already been accorded with Thai nationality;

(b) Outside hill tribes who immigrated from neighbouring countries e.g. Burma/Myanmar, Laos, China. The Cabinet Resolution of 13 October 1995 granted “alien” status to these people (holding blue ID cards).

18. The ethnic background of the majority hill tribes are the Sino-Tibetan language family group and the Austro-Asiatic. They worship animism, respect their ancestors, and adhere to traditional rites and way of living. Senior members of the community play major role in solving conflicts in the families and communities. Agriculture is their main occupation; they are in rice cultivation and grow substitute crops in the form of recycling fields and non-permanent fields. The ethnic hill tribes of Sino-Tibetan family group are Karen, Lahu, Lisu, Akha, combined with Kachin and Bisu. Some sources of information include Hmong and Mian in this language family group as well.

<sup>2</sup> The name in brackets is the original name used by the Department of Provincial Administration. This was changed to a new name, according to what the ethnic people call themselves, by the Regulation of the Central Registration Office on Consideration of Recording Persons’ Identification Status in the Civil Registration for Persons on the Highlands, B.E. 2543 (2000).

(b) “Chao Lay”<sup>3</sup> or “Sea Gypsies”

19. **Chao Lay** as an ethnic group belongs to the Austronesian language family group. There are sub-groups to this, namely Mokaan or Moken, Moglan and Uraklawoey. They live on the islands off the coastal provinces along the Andaman Sea, i.e. Ranong, Phangnga, Phuket, Krabi and Satun. This ethnic group has lived in Thailand for hundreds of years. There are approximately 1,700 families of them, or around 10,000 altogether in population. The Mokans are in Ranong, Phangnga and Phuket. The Moglans or New Thais are in Phangnga and Phuket. The Uraklawoey are in Phuket, Krabi and Satun. These Chao Lay settle their villages on lands without any title deeds. This is due to their traditional culture of non-attachment to land possession, and their belief that land and other resources like fish in the sea are not possessed by anyone, and everyone has the right to access and utilize them. At present, some groups of these Chao Lay have settled permanently on the islands in the provinces named above.

20. **Mokans.** Their habitat is both on the land and in the sea. During the southwestern monsoon season, they build huts and stay on the shore, and during the northeastern monsoon season, they sail their fishing boats along the islands’ coasts, catching fish and other byproducts from the beach and the forests and doing some agriculture. The Mokans’ origin is from the Marid islands of Burma/Myanmar. A big cluster of them now live on Surin islands of Phangnga province in Thailand. After the tsunami disaster on 26 December 2004, people came to know more about the Mokans since they played a role in helping a number of people who were struck by the gigantic waves. They themselves, however, were also badly affected by the tsunami. Several Mokaan villages and their fishing boats were swept away by the waves, making them homeless and depriving them of their *modus vivendi*. Some volunteer organizations stepped in to help build new homes for them. But these homes are different from their typical ones, forcing their way of living to change. Many of them have become construction workers or daily-wage labourers. The government sector has taken interest in these people. The Department of Provincial Administration issued Identification Cards and Household Registration Books for 37 Mokans in March 2006.

21. **Uraklawoey** (some data call them Orang-laut) are an ethnic group that belongs to the same language family group as the Mokans, but they have their own language which is different from the Mokans’. They live close to the Mokans, but their habitat stretches further to the south toward Krabi and Satun provinces. Presently, the Uraklawoey are settled permanently and live a normal life in the same manner as other Thais. Some groups of them worship Islam, and they do fishing as their main occupation. The Uraklawoey language is now spoken by around 3,000 people only. The language is thus regarded as at risk of decline and becoming obsolete.

(c) **Malayu-descended Thais**

22. The ethnic groups in the lower south of Thailand (provinces of Yala, Pattani, Narathiwat, Satun and Songkhla) consist of Malayu-descended Thais, Buddhist Thais and other ethnic groups, e.g. Zagai. Generally, the Buddhist Thais and the Chinese live in the urban areas, while the Malayu-descended Thais live in all parts of the country, and outnumber the former groups in the rural areas.

23. The Malayu-descended Thais in the southern border provinces belong to the Austronesian language family group, worship Islamic religion and call themselves Malayu Muslims. Their population is around 1.4 million. They are the majority population in the

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<sup>3</sup> This term is no longer used. The preferred term is “Moken”.

area (80%). The rest are Buddhist Thais and Chinese (20%). Usually, the Malayu Muslims, the Buddhist Thais and the Chinese live in peaceful harmony, like brothers and sisters. They are interdependent, and exchange with one another in terms of culture and living necessities.

**(d) Other ethnic groups**

*Ethnic Groups in the Northeast (Esan)*

24. The Northeast or the Korat Plateau is the most populated region of Thailand, i.e. over 33% of the total population (approx. 21.3 million people). This area in the past was inhabited by pre-historic people and used to be the site of Ban Chiang civilization. It is also the origin of Jenla, an ancient kingdom. There are thus many old communities and a number of originally native ethnic groups, including several old ethnic groups. According to the data from the Ethnolinguistic Map, the majority of Esan population are of ethnic groups that belong to the Thai and Austro-Asiatic family groups (See Table 3).

25. Most of the research work on ethnic groups in Esan study about their way of living and social changes that affect them. The studies find that some ethnic groups have faced socio-cultural problems and the threat of losing their identity, and are at risk of decline and extinction. In other words, they have been deprived of their cultural right and right to a nationality. These rights fundamentally reflect the diversity, beauty, capital, force and strength of a society.

26. Even though there are diverse ethnic groups in the Esan region, the conclusion from the focus group held on 14 September 2006 in Khon Kaen province states that despite the large number and diversity of ethnic groups that exist in Esan, due to the generosity and kind-heartedness of the Esan people in general, as well as their experience of interrelating with people of diverse ethnicities, the Esan people of different ethnic groups mingle well and always welcome people from other places. This background is like a special force that unites them and creates a drive for them to relate more with people in the other regions. All the ethnic groups live together with mutual respect. However, there may be some problems concerning cultural rights, the problems are not serious. All other ethnic groups both in Esan and other regions are facing a common threat to their cultures and languages declining. Several ethnic groups have gradually lost their identities and cultures unknowingly, due to the modern lifestyle. To name a few, the Kui/Kuay, Yogun, and other ethnicities such as Bru are nowadays almost unknown. In an attempt to preserve these ethnic cultures, certain groups of academics have set up museums of the ethnic groups that are at risk of declining and becoming extinct.

**2. Displaced Thais**

27. There are a number of Thais who have to bear the consequence of colonialism. When the border demarcation was carried out to turn part of Thailand's border frontiers into that of its neighbouring countries under western colonization, namely Burma/Myanmar, Cambodia, Laos and Malaysia, the Thais who lived on the transferred pieces of land could no longer maintain their Thai nationality, even though they were born from parents who had Thai nationality. This is the legal consequence of territorial alteration. These Thais then called themselves "displaced Thais". There are two groups of them: (a) Persons who live in the foreign land that used to belong to Thailand; (b) Persons who immigrated into Thailand after the land transfer, some immediately after and some subsequently, due to unrest situations in those respective countries. The latter group is the one which has been faced with problems concerning their status and nationality. These displaced Thais are both Buddhists and Muslims combined, as described below.

28. Thai-descended Displaced Persons with Burmese Nationality are Thais who live around Thawai, Marid, Tanaosri, which used to belong to Thailand before the border demarcation to transfer those lands to Burma/ Myanmar under occupation of Britain at the time. Burma/Myanmar inherited the lands when it gained independence. The uncertainties and difficulties in Burma/Myanmar, whether they be political and economic problems, as well as unrest by minority groups, prompted these displaced Thais to return to Thailand. Around 8,000 of them came back to settle in the western and upper southern border areas of Thailand (Tak, Prachuap Khiri Khan, Chumphon, Ranong). By Cabinet Resolution of November 27, B.E.2540 (1997), the Royal Thai Government has a policy to convert the nationality of these people to Thai. (They used to hold yellow ID cards with dark blue rims.)

29. Thai-descended Displaced Persons from Koh Kong, Cambodia are Thais who live or work in Koh Kong, which is the land that Thailand lost to France during its occupation of Cambodia. This group will also include Thai-descended Displaced Persons from Siem Reap, Phratobong and Srisopon. When Cambodia gained its independence and underwent a major political change in 1974, more than 10,000 of these Thais gradually took refuge into Thailand, to settle in Trat province. There are not less than five Cabinet Resolutions from 1980 (5 February), 1983, 1984, 1991 to 2004 (3 August) that granted approval for these persons to convert to Thai nationality, including allowing their children who are born in Thailand to have Thai nationality. However, there are still some of these people, holding green ID cards, for whom the authorities cannot prove their identification status.

30. Furthermore, there are also Buddhist Thai Displaced Persons from Kalantan State of Malaysia, and Thai Displaced Persons from Laos, who face problems common to those Thai-descended Displaced Persons from Burma/Myanmar and from Koh Kong. But these Buddhist Thais already have Thai nationality. And, there are the “Lao Phukhao” people who used to live in the northern and northeastern border provinces of Thailand (Chiang Rai, Phayao, Nan, Uttaradit, Loei, Nong Khai, Nakhon Phanom, Mukdahan and Ubon Ratchathani), and used to flee the suppression by the Communist rebels into Laos. This group of people, approximately 2,000 of them in number, when they returned to Thailand, became illegal immigrants and lost their persona grata status. But the Cabinet Resolution of 24 December 1991 gave approval to convert their nationality to Thai.

### **3. Unsurveyed persons, persons with status problems, rootless persons**

#### **(a) Unsurveyed persons include both the group of people who originally lived in Thailand and those who sought shelter from outside the country**

31. The group of persons who originally lived in Thailand but were not covered by the official survey, resulting in their illegitimate status. These persons can generally be found in big cities as well as in remote rural areas. A number of them are hill tribe people (around 300,000 persons). So far, there has been some progress in the government’s attempt to solve the problem for these people, one concrete action being to record their Thai nationality in their household registration books. The Department of Provincial Administration currently sets a target of 90,739 persons to achieve in terms of status identification for this group of people. So far, the status of 73,133 persons have been identified, with the remaining 17,606 persons, pending the ongoing process of investigation and status proof.

32. The group of persons who sought shelter from outside Thailand, but have resided in the country for a long time or has been helpful to the authorities, have finally been granted with permanent residence status by the government. For example, the Vietnamese displaced persons, the former National Chinese Army soldiers now hold the status of legitimate alien immigrants, and their children born in Thailand will be granted Thai nationality. The group

of persons who are Thai descendents will have their nationalities converted to Thai. This group amounts to about 180,000 persons, 53,000 of them have had their status identified.<sup>4</sup> The remaining 120,000 persons are in the process of filing their requests for status identification according to the official set guidelines.

**(b) Persons with a status problem due to various reasons, stated as follows**

33. The group of persons who have sought shelter from outside Thailand and still cannot return to their countries of origin. This group comprises people from neighbouring countries. Among them are certain groups of Thai descendents who refused to return to their countries of origin, due to various reasons, e.g. insecurity, unsafe situation, or the country of origin denied their return. As for these Thai descendents who remain in Thailand, a number of them have lived in Thailand for so long that they have harmonized well into the Thai society. The authorities have conducted a survey and arranged registration under ‘controlled’ and ‘exempted’ categories to legitimize their temporary stay on humanitarian ground. There are around 360,000 persons in this group; most of them still do not have a clear status.

34. Another group of persons with a status problem are those who are studying at different levels in academic institutions in Thailand, both government and private ones. These people may face obstacles in enjoying their basic rights after they graduate. It is estimated that there are approximately 60,000 persons under this category. The Ministry of Education has already issued regulations to address this problem since 2005.

**(c) Rootless persons**

35. These people are a group of persons whose origins cannot be identified or without any clear connecting point; they are not accepted by any countries of origin. No action has been taken to identify the status of these people, especially those without parents or ancestors, or have been abandoned since childhood, making it impossible to trace their families. It is not possible to specify the number of such group of persons as the Northeastern Displaced Thais who migrated from their place of birth to work in other regions and lost their personal identification record and proof. They were not covered by the population census survey and finally became rootless persons. Samples of these persons includes the displaced northeasterners affected by the tsunami, whose parents migrated from the place of birth to the south to work as labour in the mining or fishing industries and did not have any personal identification proof. The next of kin to these persons then became rootless persons.

**4. Alien population**

**(a) Displaced persons from neighbouring countries granted with “permanent residence” status**

36. There was an influx of many hundreds of thousands of displaced persons from the neighbouring countries into Thailand during 1945–1976 to find better lives due to economic and political reasons. In the first stage, the Royal Thai Government made a survey to keep personal history record of these people and issued ID cards for them and let them stay in the designated places for humanitarian reasons. Later on, the government had a policy to identify status of these people to grant them with permanent residence status (some are still under consideration for status provision). The reason is because most of these Displaced Persons have lived in the country for many years and have made significant

<sup>4</sup> Data as of 2008.

contributions to the country. For example, the former National Chinese Army soldiers, independent Chinese Haws, Burmese displaced persons who have entered Thailand before 9 March 2008, the Nepalese, Vietnamese and Laotian Displaced Persons whose personal history have been recorded and issued with ID cards, etc.

**(b) Illegal immigrants exempted to stay temporarily**

37. **Illegal Migrant Workers of three nationalities (Burmese, Laotian and Cambodian).** This group of people entered Thailand to work, mostly taking up low-level jobs that Thai people would not do. Their number has tended to be on the rise since 1992. Up to present, their number is estimated at over one million persons. Addressing this issue, the Royal Thai Government has had policy to bring these illegal migrant workers into a legal employment system. They have been given opportunity to report and register with the authorities, in order to prove their nationalities. This undertaking is a cooperation between the Royal Thai Government and its neighbouring countries, and is still in progress.

38. **Displaced persons fleeing from fighting from Burma/Myanmar.** The Royal Thai Government has taken care of this group of people based on humanitarian principles. Nine designated temporary shelters have been set up to cater to their needs, while they await their repatriation or transfer to third countries.

**(c) Other illegal immigrants to be repatriated under Thailand's Immigration Act**

39. These are the Rohingyas who sought shelter from Burma/Myanmar, the Laotian Hmongs in Petchabun province, and the illegal immigrants from the Democratic People's Republic of Korea (DPRK).

40. The alien population under 4 (b) and 4 (c) have the status of illegal immigrants under control and bound by treatment in accordance with Thailand's Immigration Act. Their legal rights are limited to a certain level, but not in violation of the International Convention on the Elimination of All Forms of Racial Discrimination. All operations are in principle based on the differentiation between persons with legal status and persons with illegal status, thus not a discrimination in the form of racial discrimination.

### **III. Analysis of implementation under the International Convention on the Elimination of All Forms of Racial Discrimination**

#### **Article 1**

##### **Definition of racial discrimination in Thai domestic laws**

41. Despite the fact that Thailand has no laws that respond directly to the Convention's articles on racial discrimination, there are existing social, political and public administration infrastructures which are conducive to its compliance with the Convention. Socially, Thailand is a mixed society, with no division nor discrimination on the basis of race, ethnicity or religion. None of its existing laws is indicative of racial division or rights limitation towards any group of citizens to the extent of causing violent racial conflict. Moreover, the country's political structure under the Constitutional Monarchy has a number of mechanisms and measures with regard the three columns of power, namely the Legislation, the Judicial and the Administration, as well as other relevant measures, which are conducive to racial harmony of its citizens. It is also noteworthy that the Constitution of Kingdom of Thailand B.E. 2540 (1997) and the Constitution of B.E. 2550 (2007) both contain articles on the protection of human dignity, rights and liberties: (Section 4) on

equality of protection for every citizen, male and female, regardless of origin of birth, gender, religion; (Section 5) on prohibition of unfair discrimination against any person for reasons of differences in birth origin, race, language, gender, age, physical condition or health, individual status, economic or social status, religious belief, educational background, or political opinion that does not violate the Constitution. Both Constitutions have provisions on special measures, stating that, "... the measures set by the Government to eliminate obstacles or to enable a person to exercise one's rights and liberties equally with others are not regarded as an unfair discrimination practice ..." (Section 30), which corresponds with article 1, paragraph 4 and article 2, paragraph 2 of the Convention.

42. Many sections including the part entitled Fundamental State Policy Direction of the Constitution (Part 5, Sections 71–89) support the principle of elimination of racial discrimination, e.g. the State has to support and protect Buddhism and other religions, enhance good understanding and unity among believers of all religions, promote friendly relations with other nations in the international community, withholding the principle of equal treatment.

43. Apart from the Constitution Law, Thailand has also enacted a number of laws and regulations that aim to eliminate racial discrimination. To name a few, The Human Trafficking Prevention and Suppression Act of B.E. 2551 (2008) sets harsher punishment on the traffickers, and the victims of human trafficking can demand compensation for damage and will be provided with shelter and better assistance including rehabilitation, regardless of nationality. The Act also stipulates exemption for the non-Thai trafficking victims to stay in Thailand temporarily and permission for them to work legitimately for a temporary period, for humanitarian reasons. Further, in the case of foreign victims of trafficking who claim to have permission to reside in Thailand, Thai officials will take due action to bring them back into Thailand without delay if they are able to prove their residential status. The Citizens' Registration Act (Amendment 2) of B.E. 2551 (2008) specifies that the Registrar has to admit every birth announcement and issue birth certificates to all children born in Thailand regardless of nationality, whether Thai or non-Thai, under the law on nationality regarding legitimacy of birth. This will ensure that every child born in Thailand have a birth record, thus enabling children without nationality to enjoy their basic rights particularly in education and health. The Nationality Act (Amendment 4) of B.E. 2551 (2008) specifies that children of ethnic groups born before 1992 should be granted Thai nationality and where they are without birth certificates, measures will be adopted to offer them such document. There are to be Ministerial Regulations which address the issue regarding the status of the children of those illegal immigrants originally regarded as illegal immigrants. The Act on Alien Persons Working in Thailand, B.E.2551 (2008) stipulates that all migrant workers with work permits will receive the same social security, welfare and protection as Thai labour, under the Labour Protection Act and the Social Security Act.

## **Article 2**

### **Condemnation of racial discrimination and policy to eliminate racial discrimination**

#### **Condemnation of racial discrimination**

44. Thailand has not made an official declaration in writing to condemn racial discrimination. But its Constitution guarantees the protection of rights and liberties, as well as equality for every Thai citizen of all origins and religions. Thailand also has a state policy direction that aims to promote good relations and equality among its people, and cooperation with other nations in upholding international justice and world peace. This is evident in all Thailand's Constitution laws dating back to the 1974 Constitution and even

before. Furthermore, Thailand has no policy or law that divides its people by class, race or nationality under the democratic system and in Thai society. It does not support or condone any act of racial discrimination by any person or organization.

**Implementation at the levels of officials and organisations on the basis of non-discrimination**

45. Government civil servants or officials are duty bound by the Constitution to implement under the law to uphold public interest, facilitate and provide services to the people without bias or any political inclination. In the case of neglect of the aforesaid duties, the stakeholders concerned can file requests for clarification (Section 70). Malpractice or neglect of duty performance by government civil servants or officials with the intent of causing damage to any individual is a criminal act with punitive measures of 1–10 years' imprisonment or fine, or both. (Criminal Code, Section 157) Moreover, there is the Act on Civil Servants' Regulations B.E. 2535 (1992) that specifies on general requirements of genuine belief in the democratic system with the King as the Head of State, and strict observance of governance. On top of this law, there is also a Code of Conduct, which governs their conduct. According to this Code of Conduct, civil servants must welcome, attend to and facilitate all peoples' visits to their offices without delay, with willingness and courtesy. They must render the best services to the people in all fairness, and provide assistance where needed. They must not look down upon, humiliate or intimidate the people who seek their help in any way. Those in serious offence of these disciplines will face harsh disciplinary punishment (Section 94). Civil servants must perform their duties with honesty, loyalty and fairness. Malpractice or failure to perform their duties for illegitimate self benefit or for the benefit of others are regarded as serious professional dishonesty and disciplinary misconduct (Section 82). The aforementioned provisions under these laws are guarantees of non-discrimination by personnel in the government sector. To ensure effectiveness in practice, knowledge transfer has been given to the government personnel involved in legal and judicial system, education, health, etc. to increase their knowledge and awareness about human rights. Such knowledge transfer has been in the forms of meetings, seminars, training courses, study visits, etc. conducted extensively at national and sub-national levels.

46. At organizational or institutional level, the Constitution provides for a number of independent bodies as mechanisms to guarantee the implementation of human rights in compliance with its binding provisions regarding human rights. Those bodies are the Administrative Court, the Parliamentary Ombudspersons, and the National Human Rights Commission. There are supportive laws to ensure effective operation of these independent organizations. To mention but some, the Act on the Establishment of the Administrative Court and Administrative Procedures B.E. 2542 (1999) is the law that guides and governs the operation of the Administrative Court. It gives the Court authority to determine verdicts to revoke administrative rules, regulations or orders, to order government officers to perform their duties, to disburse money, to transfer assets, or to treat the persons involved in respect of their rights or duties. Furthermore, for the government agencies including educational institutions, especially Ministries and Departments, which have missions related to solving problems that affect ethnic groups, e.g. the National Security Council, the Ministry of Interior, the Ministry of Public Health, the Ministry of Education, the Ministry of Social Development and Human Security, the Ministry of Natural Resources and Environment, they have revised the policy direction in solving conflicts between the state and the people, by adhering to the human rights principles, using mainly the negotiating system and the process of people's participation. Meanwhile, a draft legislation on the elimination of unjust discrimination toward individual persons has been proposed by women's organizations to the government for consideration with a view to further submission to the parliament.

### **Policy review**

47. In reviewing policies or revising or dissolving laws that stipulate discriminatory practices, it is found that Thailand has no discriminatory laws as such in normal circumstances nor as general practice in its society. Race is not a limitation or condition in legal dealings, or admission to employment both in the public and private sectors. Thailand's laws, rules and regulations only specify Thai nationality as a requirement of employment, regardless of race or origin. Clear examples of review and revision of Thailand's policies, laws, rules and regulations to overcome obstacles to totally achieve racial non-discrimination are the following: the termination of the Master Plan for the Development of Community and Environment and Control of Addictive Plants on the Highlands; the announcement of Strategies for the Management of Persons' Status and Rights in 2005; the announcement of the National Security Policy B.E. 2550-2554 (2007–2011); the improvement of the Act on Nationality and the Act on Civil Registration, the Human Trafficking Act, the Community Forests Act; and the proposition of a legislation on the elimination of unjust discrimination toward individual persons; as well as Operational Rules and Regulations regarding Migrant workers, Regulations on the Educational Management of Persons without status, etc.

### **Race integration**

48. In bringing the different races together, contributed by the long traditional practice and the provisions under the many Amendments of the Thai Constitution as mentioned earlier, Thailand has implemented concrete measures to promote good relations, understanding and unity among its peoples, starting with advocacy campaigns by both the private sector and the civil sector with concepts on human security as the ultimate aim. There have been review, revival and establishment of organizations that are seriously committed to promoting unity in ethnic groups. For example, the revival of the Southern Border Provinces Administrative Center to enhance and speed up development for the Muslim Thais, the revival of the Welfare and Development Centre for the Hill Tribes under the Ministry of Social Development and Human Security, the establishment of the Institution on Peaceful Strategies under the National Security Council, and the serious effort to use more peaceful strategies and dialogue, as well as to instill this concept into the minds of children and the new generation of young people through cultural exchange programmes and educational management that aims for a united and harmonious society. Moreover, Thailand, by the public sector, has initiated a number of special projects to improve the quality of life of the people in remote areas, ethnic groups on the highlands and the Malayu-descended Thais in the southern border provinces. These projects, once implemented to a certain satisfactory level, will be institutionalized and taken up by the respective local administrative offices which are closer to the target groups of people. Besides, there have been various collective efforts made by the various sectors in society to promote and strengthen unity of the people in the nation. These efforts are from the public, the private and the civil society sectors, as well as academic and religious institutions both at the national and local levels. They seek to raise awareness about the value of unity, to translate the concept down to practice and to expand it extensively to the people through related agencies and organizations.

### **Policy to eliminate racial discrimination**

49. The following are major policies and work plans used as guidelines for the country's development, which cover the implementation on human rights protection and the elimination of racial discrimination:

- The Five-Year National Economic and Social Development Plan – From the period of this report to present is under the 9th–10th plans (2001–2006 and 2007–2011).

The two plans have set strategies for human resource and country development and to move Thailand towards being a society of wisdom and learning, based on the directives of building harmony and peaceful coexistence among Thai people, strengthening good relations of all peoples in the society on the basis of rationality, enhancing human security and quality of living at both family and community levels, developing diverse and extensive social and economic security systems, promoting safe and healthy living on the basis of social justice, strengthening integrated judicial process and strict law enforcement, in conjunction with raising awareness on rights and duties of citizens and on the values of and respect for human dignity to reduce conflict.

- Policy and 1<sup>st</sup> National Master Plan of Action on Human Rights (2001–2005).<sup>5</sup>
- Strategic Implementation Plan of the National Human Rights Commission (2002–2007), and theme-specific plans on various issues, e.g. Plan on Children and Youth, Plan on Women, Plan on Family, etc.
- Strategic Plan of the Court of Justice to conduct justice and protect the rights and liberties of the people in fairness, promptness and equality under the principle of legal governance. This justice must be made equally and extensively accessible to all persons to ensure their basic rights and liberties, as a guarantee for the commitment towards the elimination of racial discrimination under Article 5 of the Convention.
- Strategy to Address the Problem of Status and Rights of Persons 2005 is a policy and strategy aimed directly to speed up the solution of the problem of status of persons. It determines status for the group of persons without clear status, so that they can access rights. This policy lays down a system to protect their legitimate rights, to enable them to lead their lives and participate in the country's development to their full potentials. It hopes to prevent new immigration of persons without status, adjust the attitude and provide assurance and guarantee on honest conduct by state officials to reduce the opportunity for exploitation. Four strategies have been utilized: (1) Strategy on Status Determination; (2) Strategy on Provision of Basic Rights; (3) Strategy on Proactive and Creative Implementation; and (4) Strategy on Administration.

*Policies, work plans and special measures toward ethnic groups*

50. The Policy and Master Plan for Community Development, Environment and Addictive Plants Control on the Highlands, Amendment 1, 2 and 3 (1992–1996, 1997–2001, 2001–2006) is under the responsibility of the National Security Council. It aims to reorganize the communities on the highlands into permanent households and villages by law, and at the same time, to regulate their land utilization. The plans seek to speed up the persons' status identification for the highlands people to make them legitimate, to prevent and block new immigrants, and to monitor situations and problems. In coming up with appropriate solutions to the problems, three strategies of implementation framework have been laid down, namely the Strategy to bring sustainable security to the highland communities, the Strategy for the development and management of habitat and livelihood including land for cultivation on the highlands, and the Strategy for Administration and Management. These strategies have been devised into practical plans/ projects. A Committee has been set up, the members of which are from related agencies working together. This Master Plan has later developed into the new Policy and Strategic Plan of

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<sup>5</sup> During preparation of this report, Thailand is preparing the 2<sup>nd</sup> National Master Plan of Action on Human Rights. The 1<sup>st</sup> Plan of Action is in effect until the 2<sup>nd</sup> Plan is completed.

2005. Besides, there are many other plans/projects implemented by the government sector and the civil society sector. (See details in annex III.)

### **Article 3**

#### **Condemnation of racial division and apartheid**

51. Thailand does not condone racism or apartheid.

### **Article 4**

#### **Condemnation of dissemination of thoughts or organisations on the basis of racial superiority**

52. Thailand has had, throughout its long history, a mixed population of diverse races. Any belief or favouritism toward racism or racial superiority would contradict the fundamental sentiment of the Thai people. It is therefore difficult for such beliefs to form, exist and expand to the extent of affecting other races or societies. The Thai Constitution stipulates that the use of power by state agencies must consider and respect human dignity, rights, liberties and equality of people who can demand their rights by filing lawsuits in court. There are measures to promote the rights of persons and communities in preserving their cultures, traditions and local wisdom. They have the right to file complaints or petition against government agencies and organizations to admit their wrongdoings, the right to participate in the court hearing process involving government officers related to administration that affects their rights (Sections 56, 60–62), and the right to exercise peaceful opposition (Section 65). At the same time, the Constitution guarantees the rights and freedom of expression of the media in giving their opinion, speaking, writing, printing, advertising, or other forms of communication. It prohibits limitation of liberty, or editing of news, columns or articles of the print media, radio and television before broadcasting. These media operators have the freedom to present news and express their opinions under the Constitution (Sections 39–41).

53. Thailand has no law that directly sets punitive measures toward racist propaganda. However, there are related laws covering this issue, as noted below.

54. The Criminal Code stipulates that making others commit an offence, propagating or announcing to the public to commit an offence, being accomplices to a crime toward an offence by supporting or facilitating are criminal offences to serve the same legal punishment as the offenders themselves (Sections 83–88). Insulting others or announcing propaganda are offences that will serve fine or imprisonment, or both (Section 393). Any act of insult to religion towards objects or places, or causing disturbances at religious congregations or ceremonies will result in a fine or imprisonment, or both (Sections 206–207).

#### **Laws regarding radio and television broadcasting and consumer protection**

55. The Radio and Television Broadcasting Act B.E. 2498 (1955) prohibits transmitting or arranging for radio or television transmission of news and information known to be untrue, which may cause damage to the country or people (Section 10). Offenders will face a fine of not more than 2,000 Baht or imprisonment of not more than one year, or both (Section 21). This law is supplemented by other regulations and Ministry Regulations containing supportive measures, such as the following:

- Regulations on Radio Broadcasting 1992 stipulate that all broadcasting be in Thai language (except certain programmes that have necessity to use other foreign

languages). Thai language is defined as including local dialects in different localities of Thailand (No. 23).

- Ministerial Regulation Amendment 14 dated 14 November 1994 sets specifications of broadcasting programmes to be: of intention to service and for true benefit of the public, considering equal rights and accessibility to news and information by the people, as well as promoting education, culture and ethics, which do not conflict with public morality and traditions (No. 14). The Regulation specifies further about broadcasting programmes, including commercials and business management not to be of the nature that may affect or insult the monarchy or other national leaders, which can cause insult to the country, the government, any government officers or any group of people, or which cause insult and damage to any religion, or show disrespect for the country's highly-respected persons, places or objects, or which disrupt peace and order of the people causing disunity among peoples in the nation or damaging Thailand's relations with other friendly nations, or which are insults on other persons (Nos. 16 and 21). Violations of these regulations can face suspension or revocation of the operator's broadcasting license (No. 17).
- Consumer Protection Act B.E. 2522 (1979) specifies consumer protection rules regarding commercials or advertisement that their copies must not contain any wording that is unfair to the consumers/ damaging to the general public (No. 3), or that may cause disunity or division among the people (Section 22).

56. Thailand does not condone any act of racism. Racism may also be linked to violence, lead to insults and marginalization of other races. Being a mixed and diverse society, any incident or act of such nature will face negative reaction from the Thai society immediately. There have been cases of certain songs banned from public broadcasting because they contain words or lyrics that may cause the sentiment of racial insult or ridicule. Some TV dramas and cinema films have been protested against or opposed by the society to the extent of succumbing to the pressure by having to edit, revise or withdraw from broadcasting. The reason is because those dramas or films were aiming to ridicule in a racist manner by mocking culture, tradition, way of living, language and identity of the people of a certain race or ethnicity. At present, Thailand is trying to improve its laws on certain media to cope with the current situations. For example, the draft new Films and Videos Act contains provisions that prohibit any content which is contradictory to the law and order of the country or to the decent moral values of the people, or undermining or affecting state security.

57. However, based on Thailand's reservation to Article 4 of this Convention, the measures under subparagraphs (a), (b) and (c) will apply only when the country sees the necessity to enact such laws. Thailand considers that its laws and social conditions are sufficiently complementary to each other. Another reason is Thailand sees that immediate arrangement of positive measures may not be easy to achieve in practice.

## **Article 5**

### **Guarantee of a person's right to non-discrimination**

#### **Article 5 (a): Equal rights under courts of justice and the judicial process**

58. The Thai Constitution sets provisions for observance of law on the protection of rights and liberties of a person, for systematization of judicial process work towards effectiveness, and for prompt conducting of justice for the people on the basis of equality (Section 75). The rights and liberties of a person under the judicial process imply that a person does not have to serve criminal punishment if he has not committed an offence, or must not be punished more harshly than what the law stipulates, and the accused must be

assumed innocent and must not be treated as an offender until proven guilty. Every person has the right to fair and transparent trials, and to appropriate legal protection and assistance by the State. Any search, arrest or detention of a person conducted in private can only be done with a court warrant. Regarding requests for bail, prompt consideration must be made, and the person arrested or detained has the right to individual legal counseling with a lawyer and to be visited. The accused in a criminal case has the right to state assistance in promptly assigning a lawyer, if the accused cannot find one himself. The victim, the accused, and the witness has the right to protection, assistance, compensation, disbursement of expenses, etc. from the state, where deemed necessary and appropriate. They also have the right to request retrials (Sections 237–247). The Civil Procedure Code, and the Criminal Procedure Code set detailed court procedures under 323 articles and 267 articles respectively. There are also issue-specific laws according to the nature of those offences. In exercising compliance with the law under Thailand's justice procedures, there are the Court of Justice and the Administrative Court, which protect the rights of every person who enters the judicial process equally, regardless of race or ethnicity. There are also justice procedures at the shelter for displaced persons who fled fighting from their countries. Even though Thailand has not acceded to the Convention relating to the Status of Refugees, it has jointly implemented with the international organizations concerned program to install justice procedures at the shelters, as well as in raising awareness of the personnel concerned on the procedures.

59. There are in practice several channels for filing complaints or petitions, both through the government sector and the private sector. For example, the government sector has, under the Constitution, these following organisations which deal with examination/investigation: the Parliamentary Ombudspersons, the National Human Rights Commission, the Administrative Court. The Judicial side has the Court of Justice, and the Administration has the Ministry of Justice (The Community Justice Centre, The Department of Rights and Liberties Protection, by the Justice Clinic, Department of Special Investigation), and the Ministry of Interior ("Damrong Dhamma" or Justice Upholding Centre). The private sector has the Lawyers' Council, organizations belonging to ethnic groups, as well as various mass media. A number of service recipients are persons from ethnic groups who will receive assistance from the Justice Clinic Project, financially supported by the Department of Rights and Liberties Protection in supplying voluntary lawyers from the Lawyers' Council to provide legal counseling. Moreover, each year, the Lawyers' Council and other private organizations provide assistance to many cases involving ethnic people and nationality. A key example is measures to afford justice to the unsurveyed persons at Mae Ay District, and the case of the Malayu-descended Thais minority group. (See details in annex IV.)

#### **Article 5 (b): Right to security and protection by the State**

60. The Constitution states that a person has the right and liberty in his life and body. Torture or punishment using cruel or inhumane methods cannot be inflicted upon any person (except for capital punishment which is not regarded by Thai law as a cruel punishment). Arrest, detention, search or any other act that affects the rights and liberties of a person cannot be done, except by the provision and power of the law (Sections 31/32). Monitoring of human rights violations are done by the National Human Rights Commission (Sections 199–200) and the Parliamentary Ombudspersons (Sections 196–198).

61. According to the Criminal Code, punishment for the convicted are execution, imprisonment, detention, fine, confiscation of assets, according to the degree of severity of the crimes (Section 18). Capital punishment must not be imposed on convicted persons under 18 years of age, and execution is carried out by using lethal injection. (Amendment Act to the Criminal Code, 16<sup>th</sup> Amendment B.E. 2546 (2003), Sections 3,4). Those

convicted of having used torture leading to murder are subjected to the death sentence (Section 289 (5)).

62. Regarding rights of the accused during trials, the Criminal Procedure Code provides the rights to private legal counseling with a lawyer while in detention or imprisonment, and to medical visitation and treatment in illness. The personnel or officer in charge must inform the person under arrest of his rights (Section 7 (2)).

63. Witnesses in criminal court cases are protected by the special measures under the Witness Protection Act B.E. 2546 (2003), (e.g. cases related with laws on drugs, money laundering, corruption and customs, cases related to national security, sex, organized crime, etc. – Article 8). Samples of witness protection special measures are relocation, change of identities, provision of living allowance, assistance in occupation, education and training. Witnesses can demand their legitimate right to be protected for safety or other actions (Section 10), by also including their next of kin.

64. In the case of persons convicted and sentenced to imprisonment, the Corrections Act B.E. 2479 (1936) defines the power and duties of the Corrections Department in making arrangements for the prisoners, prohibiting use of any instrument of restraint on the inmates, except for special reasons, e.g. tendency to hurt others, mentally disturbed, record of attempted escapes, etc. (Section 14). The Corrections Department also has its own guidelines on treatment towards the prisoners, emphasizing on improvement of their quality of life, promotion of education, elevation of their mental and spiritual health and provision of incentives with an aim to reintegrate these persons back into the society with participation by the society itself.

65. Furthermore, there are special measures to protect the affected persons or the victims who are children under the age of 18 from trauma and mental sufferings caused by the investigation process and court trials under the Criminal Procedure Code (20<sup>th</sup> Amendment) 1999, especially in the cases of sexual violations and human trafficking, which may involve children of different ethnic groups. These measures also correspond with the protection of children against violence under the Constitution (Section 53).

**Article 5 (c): Political rights, right to participate in elections, in voting and running for office**

66. Exercising the right in elections is a duty of all Thai citizens according to the Constitution. Any person who does not exercise his right to vote in elections without informing of any good reason will lose certain rights as stipulated by the law (Section 68). At the same time, the law provides freedom and liberty for persons to gather and form political parties to build their political ideologies under the Constitutional Monarchy System (Section 47). It also specifies qualifications of persons who can exercise the right to participate in national elections (member of parliament), as follows:

(a) Persons who are eligible to vote must have Thai nationality (in case of change of nationality, the person must have been granted Thai nationality no less than 5 years), must be 18 years of age and above, must have names on the Housing Registration Books, and must have resided in the respective constituency for not less than 90 days (Section 105);

(b) A person who is eligible to apply as a candidate in general elections must have Thai nationality by birth, must be over 25 years of age, must be a member of a political party for not less than 90 consecutive days, and must have his name on the Housing Registration Book in the province where his application for candidacy is filed for not less than 5 years. There are additional qualifications required for election candidates of the “by constituency” category (Section 107).

67. For elections of Members of Parliament, there are three Supplementary Laws to the Constitution, which specify details on the Election Commission, the Election of Members of the House of Representatives and Senators, and on Political Parties.

68. As for local elections (Tambon Councils and Tambon Administrative Organisations-TAOs), there are the Act on Tambon Councils and Tambon Administrative Organisations 1994 (as Amended ), and the Act on Election of Members of Local Councils or Local Administrators 2002, which specify qualification requirements for candidates, in the same manner as for national elections, particularly on age and nationality. The candidate must not be a civil servant or official of any government organization, and must have his name on the Housing Registration Book for a consecutive period of not less than 1 year up to the day of application.

69. Persons belonging to ethnic groups in Thailand, who have Thai nationality and have all other qualifications as specified by the law can exercise their right to vote in elections as Thai citizens. The government sector has made a serious effort to advocate and facilitate their exercising of this right, aiming to reach 100%.

70. However, regarding the right to apply as a candidate in local elections, candidates whose fathers are aliens must meet the same additional qualifications, in the same manner as for national elections, namely that the candidate must have Thai nationality by birth. This has been a problematic issue in many areas, since a lot of persons belonging to ethnic groups who seek Thai nationality through naturalization (rather than the acquisition of the nationality by birth) are not eligible to run for the election. This is the case even though they were born, grew up and have always lived in their respective localities. Therefore, a suggestion has been made for revision of laws concerning specification of qualification requirements for candidates in local elections.

71. The Thai people's right to participate in politics and administration has gradually improved. The Constitution of the Kingdom of Thailand B.E. 2540 (1997) specifies the people's right to participate in politics and administration, stating that people who are eligible to vote in general elections to elect members of the House of Representatives can vote in referendum on issues that affect the country's interest, or gather signatures to propose a new law or to remove someone from his position (Sections 214, 170, 304). The same right applies at the local level, with additions on increased people's participation and power and duties of the local administrative bodies. People have the right to gather signatures to remove a person from position or to propose a local decree (Sections 286–287). Local administrative organizations have additional power and duty to take charge of and participate in scrutinizing any project that may have effects on the living of the people both in and outside their areas.

72. The Constitution of the Kingdom of Thailand B.E. 2550 (2007) adds a chapter on Policy Guideline for People's Political Participation in setting economic policies, making political decisions, monitoring/examining the use of state authority. An organized network of people can express their opinion and propose the need of the community (Section 87). Direct people's participation in politics includes the right to propose a new law, to propose removal of a person from position, and to vote in referendum (Sections 163–165). Participation of people in local administration includes the right to vote to remove a person from position, to propose a local decree, to speak out and examine the local administration affairs (Sections 285–287).

73. In practice, the first referendum was carried out on 19 August 2007. It was a referendum to adopt the draft of The Constitution of the Kingdom of Thailand B.E. 2550 (2007). The result of the referendum was in favour of the draft. (Ratio between In Favour: Not In Favour is 57.81: 42.19) The Thai people's exercise of their rights to participate, to rally and hold peaceful demonstrations and to protest in a peaceful manner can result in

major changes in the country's administration. This was evident in several past incidents where massive demonstrations had direct consequences and resulted in significant changes in the direction of the country's administration and the administrators. This also intensified improvement of the concerned policies and implementation guidelines towards the stakeholders. And, as for the role of ethnic groups, there were the rally by the network of The Ethnic People's Assembly during 1999–2000 and the meetings with the networks of other groups of people to demand revision of laws and regulations. This influenced the government's commitment towards equality in regard to the right to development, which resulted in positive changes in many areas, which proved to be beneficial to the ethnic groups.

#### **Article 5 (d): Other civil rights**

##### **5 (d) (i): Right to freedom of movement and to reside in the territory of the State and 5 (d) (ii): Right to leave any country, including one's own, and to return to one's own country**

74. The Constitution stipulates that every person has the liberty to travel and the liberty to choose a locality to live in the kingdom. Expulsion of a Thai national out of the kingdom or barring entry of a Thai national into the kingdom is not allowed (Section 36). And every person has the liberty in his/her own home, and has the right to protection of his/her property and live in his/her home peacefully (Section 35).

75. Thailand sets no restriction on moving or changing domicile. Every Thai citizen can freely choose a locality to live, by the Constitution, and the Civil and Commercial Code (Sections 37–42) that endorse this right.

76. The Immigration Act B.E. 2522 (1979), the law that controls travel into and out of Thailand, stipulates that legal travel into and out of the country depends upon the presentation of legitimate passports, and can be done freely by both Thais and foreigners. As for foreigners, the law allows a person with an entry-exit visa permission to stay in the country according to the period permitted. Prohibitions are imposed on certain categories of persons, e.g. persons without sufficient means to live, persons with mental disorder, persons with serious contagious disease, persons with record of behavioural traits that may be harmful to other people, or with behaviour that leads to belief that their entry to the kingdom is for girl or child prostitution, or drug trafficking, etc. or to conduct activities that undermine state security or are in conflict with the public morality (Section 12). However, exceptions can be made on a case by case basis, by the authority of the Minister (Section 17), or the Officer in charge can grant permission to stay for a temporary period, on ground that the person is a victim of human trafficking according to Section 12 (8) (Section 19).

77. Limitations of travel, however, apply to persons/immigrants who enter Thailand without proper compliance with the Immigration Act. For example, those who enter without passports or by using fake documents, those who overstay in the kingdom longer than the period permitted, or those who use false identities of others. Other categories covered by the law include persons who have been granted special permission to stay for a temporary period, such as ethnic groups on the highlands who have not had status identification in the past, or other ethnic groups who fall into the category of being confined to stay in their localities, and need to seek permission should they wish to travel out of their locality. This condition will be removed once these people are granted Thai nationality. Thailand still has a large number of persons who face problems about nationality and status identification, which the government is earnestly solving. For immigrants to reside in localities in Thailand, yearly permission of stay can be granted under the quota of not more than 100 persons per country, and not more than 50 persons per country for persons without nationality (Section 40). Alien persons who wish to reside in the Kingdom of Thailand

must submit their requests, using the forms set by the Ministerial Regulations. Authority to grant permission is of the Immigrants Selection Committee (established under Section 6), with the Minister's consent and approval (Section 41). Then the Certificate of Residence can be issued to them (Section 47).

78. The statistics of the Immigration Office each year shows that Thailand has approximately 20 million people traveling into and out of the country. There are around 300–400 aliens who file requests to reside in Thailand in a year. (Data in Table 5) Yet there are still a number of illegal immigrants that cannot be clearly accounted for.

#### **5 (d) (iii): Right to nationality**

79. Thailand faces the challenge of determining the status and rights of persons for certain groups of people belonging to ethnic groups. This is regarded a significant problem of top priority. In regard to article 1, paragraph 2, and article 1, paragraph 3, of the Convention, which are linked to the issue of nationality, all concerned parties have not neglected the problem, but have seriously and continuously made collective effort to push for solutions to this problem, with strong awareness about civil rights. The parties concerned are from the three pillars of power, the Executive Branch, the Legislature and the Judiciary, as well as educational institutions, non-governmental organizations and community-based organizations. This corresponds with the general recommendation No. 30 adopted by the Committee on the Elimination of Racial Discrimination. Below are some examples.

80. The enactment of the Nationality Act (4<sup>th</sup> Amendment) B.E. 2551 (2008), which entered into force on 28 February 2008:

- Jus Sanguinis (Attainment of nationality by blood principle); persons born from either a father or a mother who has Thai nationality, whether born in or outside Thailand, will be granted Thai nationality. "Father" here also means the person who can prove that he is the father of the child, even though the person has not registered the marriage with the mother, and has not registered his acceptance of the child.
- Special Provision for a person who cannot acquire Thai nationality, namely, a person whose father and mother are foreigners, and at the time of the person's birth, the legal father or the father who did not register the marriage to the mother, or the mother who was allowed to reside in Thailand as a special case, or was allowed to stay in Thailand temporarily, or was a person who came into Thailand without permission. In this case of the person who does not acquire Thai nationality by birth, even though he/she was originally held to be a person who came into Thailand without permission, such person may stay in Thailand under whatever status or condition stipulated by the Ministerial Regulations, with due consideration to national security and human rights.
- The new Nationality Act also grants back Thai nationality to persons who used to hold Thai nationality because they were born in Thailand, but their nationality was revoked by the Decree of the Revolution Party, No. 337 (1972) because they were born to parents who were alien persons who had illegally entered Thailand, and for the reason of protecting national security at the time. If those persons can present civil registration proof that they have really resided in Thailand for a long consecutive period of time, they are granted Thai nationality, effective from the date this law came into force. Moreover, the procedures and steps in applying for nationality have been intensified. People who wish to apply can submit their requests to the District Registrar or the local Registrar immediately.

81. The enactment of the Civil Registration Act (2<sup>nd</sup> Amendment) 2008, which entered into force on 24 July 2008, has made revisions on birth registration to make it clearer and

more outreaching to cover all groups of people. In case of receiving birth reports, the Registrar can register and issue birth certificates on the spot. This same process applies to registering births of street children, abandoned children, children with unknown parents, or children without nationality. Under this new law, Household Registration Books will be issued to persons without nationality, as a means to give the right to birth registration to all groups of children, for the acceptance of their status and initial existence, which will lead to their eligibility to other basic rights. A very important sample case of attaining the right to hold nationality is of the people of Mae Ay District who were overlooked by the population census survey. (See details in annex IV.)

82. Apart from the Nationality Act and the Civil Registration Act, there is the Strategy to Address the Problem of Status and Rights of Persons, adopted by the Cabinet on 18 January 2005, aiming to speed up the solution of the problem of status of persons. It determines the status of the group of persons without clear status, so that they can access basic rights, lead their lives and participate in the country's development to their full potentials. Under this strategy, policies and guidelines have been laid down to protect the rights of these people and solve their problems. It also aims to adjust the attitude and provide assurance and security to state officials with honest conduct in performing their duties to reduce opportunities for exploitation, and to prevent new immigration of persons without status. Four strategies have been utilized:

(a) Strategy on Status Determination – for people who took shelter in Thailand, by giving them the right to convert to Thai nationality and granting Thai nationality to their children born in Thailand; to grant status to the legal alien persons and the right to reside in Thailand for a temporary period, etc., with due consideration to what is appropriate and harmonious to the circumstances of the target children, persons who are studying in Thailand's educational institutions, rootless persons, persons who are beneficial to the country, alien labourers and other alien persons;

(b) Strategy on Provision of Basic Rights to the persons with status and rights problem, to enable them to make their living;

(c) Strategy on Proactive and Creative Implementation to prevent new immigration, by cooperating with the neighbouring countries in human resource and community development in the border areas, and to encourage international organizations to play a role in helping to develop the quality of life of the people in the origin countries. At the same time, the strategy imposes stricter measures in preventing new illegal immigrants and in registration control;

(d) Strategy on Administration, prompting the National Security Council, as the main directing agency, to work with other concerned agencies and special task forces to speed up the scrutinizing of granting status to the certain groups of people that have status problem, with an aim to solve the status problem of people on the highlands, people in the border areas, rootless persons and displaced persons who flee from fighting and death. The strategy lays down work plans/projects, links data network, adjusts the attitude of all parties concerned including the neighbouring countries, sets direction for administration and strict law enforcement, sets priority for the implementation, builds participation from all sectors, and conducts systematic monitoring and evaluation. It aims at the six target groups of people with status problems:

(i) People who have originally lived in Thailand, mostly the hill tribes that went unsurveyed from the population census survey, totaling 90,739 persons. The majority of these people have been given status and Thai nationality in their Household Registration Books, with only remaining 2,800 persons to be addressed;

(ii) People who sought shelter from outside Thailand, have lived in Thailand for a long time and have conducted good deeds beneficial to the authorities, totaling

180,000 persons. One third of these have been given status, with the remaining 120,000 persons to be addressed;

(iii) Migrant workers as illegal immigrants (Burma/Myanmar, Laos, Cambodia) totaling 1,200,000 persons;

(iv) Rootless persons;

(v) People who have status problem and are students in Thailand's educational institutions, totaling 60,000 persons;

(vi) Migrant workers who have registered but have not undergone status identification procedures.

83. Progress of the implementation under the strategy in 2006 is as follows.

*Status specification*

84. The groups of people for whom the government has policy to specify permanent residence status are ethnic groups, and the illegal immigrants who have been granted the status of alien persons entering Thailand legally and have converted to Thai nationality. Approximately 10,500 persons in the two mentioned groups have had their status specified, and around 170,000 of them have been granted Thai nationality. (Their children born in Thailand will be granted Thai nationality under the Nationality Act and other relevant laws.) As for the remaining persons who have submitted their applications, their cases are undergoing the procedures in the process, while there are a number of them who have not submitted their applications.

85. The groups of people for whom the government has policy to grant temporary residence status, both officially and unofficially:

(a) Compile history record, issue identification cards, and designate an area to live for the group that have been permitted a temporary stay officially while waiting for their status specification, totaling around 520,000 persons, mainly illegal immigrants from Burma/Myanmar and persons on the highlands who have entered Thailand after 1976 and 1985;

(b) Measures to permit temporary stay unofficially for the groups of people who entered Thailand from neighbouring countries, including displaced persons, illegal immigrants, the National Salvation Movement, displaced Thais, persons who have contributed to the Royal Thai Government, and persons who went unsurveyed from the population census survey.

86. Implementation regarding civil registration and improvement of state laws and regulations to solve the problem about status of persons at a more progressive level includes intensifying extensive birth registration of all children born on Thailand's land according to the law on civil registration, i.e. The Civil Registration Act B.E.2534 (1991). With impetus from both the public and private sectors, as well as international organizations in Thailand, the implementation measures include forms of research study, data compilation and dissemination, ideas and concepts extracted from meetings and seminars. These have resulted in the issuance of regulations on registering the status of persons in the civil registration according to the law to cover more groups of people every year. Under the Regulation of the Central Registration Office Concerning Recording of the Status of Persons in the Civil Registration for the Variety Group of Persons, the arrangements are per year according to the planned schedule, for example:

Year 2000	Listing status of persons and registering communities on the highlands
Year 2002	Birth registration of abandoned children

- Year 2003 Birth registration of children in the shelter for displaced persons who fled fighting
- Year 2004 Birth registration of children of migrant workers (of Burmese, Laotian and Cambodian nationality) who were born in Thailand
- Year 2005 Arrangement of registration for persons without registration status, by the Regulations of the Central Registration Office on Arrangement of Registration for Persons Without Registration Status 2005, for persons without registration status who reside in localities in Thailand, but are not listed in the Household Registration (TR 13 – Household Registration for Legal Immigrants on Temporary Residence Permit, or Illegal Immigrants by the Immigration Act; TR 14 – Household Registration for Thai Citizens and Alien Persons with Alien Identification Papers), due to lack of proof of origin of birth or personal history record. The names of these persons will be added in the Civil Registration, and their children born in Thailand will be registered and issued with Birth Certificates, using the form TR 031, with their names appearing in the same History Record Registration Book as of their parents (TR 38 A)
- Year 2007 On the auspicious occasion of the 80th Birthday Anniversary of His Majesty the King, a project was initiated to commemorate the occasion to grant legal status to Thai persons not listed in the Household Registration, by attending to their reporting and facilitating them with assistance in tracing for proof and in the investigation process in order that their names can be added, or that overdue registration of births can be accepted, so that their names will appear in the Civil Registration Book legitimately

**5 (d) (iv): Right to marriage and to choose one's spouse**

87. The Constitution specifies protection of a person's right in the family and his/her right to privacy (Section 34). It also encourages and supports unity and strength of the family institution (Section 80). Regarding the right to marriage of a Thai national to an alien person or marriage between two alien persons, practices should be based on the principles of the following laws and orders:

- (a) Civil and Commercial Code, Book 5, Chapter 2 on Conditions of Marriage (Sections 1448–1460) allows a person aged over 17 years to be married. (Section 1448);
- (b) Family Registration Act B.E.2478 (1935) (Section 10);
- (c) Act on Conflict of Laws on Family Matters B.E. 2481 (1938) (Section 20);
- (d) Ministry of Interior Regulations on Marriage Registration B.E. 2541 (1998), No. 13;
- (e) Letter of the Department of Provincial Administration No. MT 0310.2/W 1170 dated 31 May 2000.

88. Practices toward alien persons should be the same as Thai nationals. There is, however, an issue concerning various considerations regarding marriage that the Registrar is unable to verify. For example, man and woman who are related by blood, i.e. are brothers/sisters by the same mother and father, or either of the two cannot be married (Section 1450). Either of the spouse under legal marriage cannot be remarried (Section 1452). It is the duty of the petitioner (the alien person) who does not have a residential locality in Thailand to find witnesses or evidence to prove to the Registrar that he/she has

all the qualities specified as conditions to such marriage. Only then the Registrar can register the marriage.

89. The Act on Conflicts of Laws on Family Matters 1938 stipulates that “A marriage which can be carried out in conformity with the law of the country where the marriage is held is considered complete.” In the case of two alien persons, man and woman, already married in their respective country, this means that their marriage is still complete or in effect. To register their marriage in Thailand without having their qualities under Section 1452 verified, will result in their marriage being nullified. The consequences faced by the married couple are regarding their rights, duties, assets and children (if any). It is therefore necessary for the country of their origin to certify their rightful qualities for marriage according to Thai laws before they can be married in Thailand. This must not be seen as a legal protectionist measure, but as one to protect rights and to comply with the provisions of the law to make the marriage registration complete.

**5 (d) (v): Right to own property, individually and jointly with others, and 5 (d) (vi) right to inheritance**

90. The Constitution’s provisions on these two issues state that the right of a person to possession must be protected. Inheritance must be protected. The right of a person to inheritance must be in compliance with the law (Section 48). The expropriation of fixed assets cannot be carried out, except by the power under the provision of a specific law, which orders payment of fair compensation to be made in due time. The assets expropriated and not utilized must be returned to the original owner and his/her inheritors by demanding back the compensation paid (Section 49). Therefore, by the provisions of the Constitution, there is the Asset Expropriation Act as a supplementary law, which has been enacted and announced in the Royal Gazette as an official record. This law is equally enforced to all Thai nationals.

91. The right to own property also covers the right to own assets, especially land (personal possession) and condominiums (joint possession with others).

92. Regarding the right to land of alien persons, the Code of Laws on Land B.E. 2497 (1954) and the Amendments guide the operation in managing the state land and in protecting the citizens’ land. This also connects to (d) Civil Rights, i.e. Right to Residing (1) and (f) Economic and Social Rights, i.e. Right to Housing (3). The law provides an alien person with the right to utilize not more than one rai of land<sup>6</sup> per family for residential purpose, not more than 10 rais for agriculture, not more than one rai for commerce, not more than 10 rais for industry, and not more than half a rai for making family cemetery (Sections 86–96). There are a set of criteria specifically in determining the right to land of alien persons.

93. As with Thai nationals, practices will be based on the Code of Laws on Land B.E. 2547 (2004). Thai nationals also have the right to occupy land for agriculture, according to the Land Reform Act or Agriculture B.E. 2518 (1975), which aims to help agriculturists to have land to make their living and to put land to use toward maximum benefit. There are also the Regulations of the Central Land Management Committee 1974 set up to assign the land that belongs to the Ministry of Agriculture and Cooperatives to government agencies or the citizens. As for the persons without legal status, they still face the problem of illegitimacy toward the two rights mentioned above.

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<sup>6</sup> 1 acre = 2.5 rai of land.

**5 (d) (vii): Freedom of thought, conscience and religion**

94. The Constitution states that every person must have complete freedom to adhere to any religion or doctrine, to practise in accordance with his/her religious strictures, attend or perform religious rites according to his/her beliefs, as long as they do not contradict the person's duties as a citizen or the public morality, or affect the national security. In exercising this freedom, a person is protected against any infringement by the state which deprives him/her of his/her right or other legitimate benefits (Section 38). The state must support and protect Buddhism and other religions, promote good understanding and unity among followers of all religions, and support the application of religious teachings to enhance moral values and virtues and improve better quality of life (Section 73). Furthermore, the Criminal Code also has clauses in support of this issue, regarding the prohibition of insult on any religion, or causing disturbances at legal religious rites or congregations (Sections 206–207). Even though the majority of the population adhere to Buddhism, and there was a group of Buddhists who submitted a proposal to the Constitution Drafting Council during their drafting in 2007 to include a clause saying that Buddhism is a national religion, there was opposition from a number of people. Subsequently, the Constitution Drafting Committee decided to retain the original clause, not to include the new clause as proposed. Thailand's population consists of peoples who adhere to a diversity of religions, including Buddhism, Christianity, Islam, Bhrama, Sikh, Hindu, Kongjue, Shinto, Zen, etc.

**5 (d) (viii): Freedom of opinion and expression, and 5 (d) (ix): Freedom of association and right to peaceful assembly**

95. The Constitution, in the Section on Rights and Liberty, upholds the people's political rights and liberties. This covers many aspects, namely freedom to express opinion, speak, write, print, advertise, and others (Section 39), freedom to a peaceful rally, and to assemble as an association, union or other groupings, including to form a political party and to hold a peaceful demonstrations (Sections 44, 45, 47, 65).

**Article 5 (e): Economic, social and cultural rights****5 (e) (i): Rights to work, to choose a career freely, to enjoy a decent satisfactory working condition, to be protected from unemployment, to equal and fair remuneration, and 5 (e) (ii): right to form and join a workers' union**

96. The Constitution prohibits forced recruitment of labour, except when there is a specific law for reasons of preventing emergency natural disasters or in war time (Section 51). It specifies rights and liberties in having an occupation and in free and fair competition, protects the people with regard public utilities, consumer protection, urban planning, conservation of natural environment, safeguard security and welfare of the people, to prevent monopoly and unfair competition (Section 50). The Constitution 2007 has added provisions on people's right to safety and security at their work places, and on secure living allowances during/after their working period (Section 44). It aims to promote the sufficiency economy concept, support the free economy system, distribute income fairly, expand career opportunities for the people at large by encouraging the use of local wisdom. All these correspond well with the lifestyle of the agriculture society where the majority of people are working in agriculture, as an independent profession. The law also supports people in working age to have jobs. It protects child and women labourers, lays down systems of labour relations and social security, sets fair remuneration, so that everyone can enjoy equal benefits and welfare without discrimination (Sections 83–84).

97. The Ministry of Labour is responsible for labour affairs, including employment, work safety and security according to all relevant laws, both domestic law and

commitments under international conventions on labour. The Employment Service and Job Seekers Protection Act B.E.2528 (1985) and the Aliens Work Act B.E. 2551 (2008) do not contain provisions on racial discrimination. The main law on labour protection is the Labour Relations Act B.E. 2518 (1975) which is an operational kind of law that provides guidelines on the promotion of good relations between employers and employees, sets principles on settling labour disputes, systematizes the formation of employer-employee associations and unions, and protects the interest of employers. The Labour Protection Act (2<sup>nd</sup> Amendment) B.E.2551 (2008) which has been in effect since May B.E. 2551 (2008) has made amendments to provide wider and more effective protection for employees, in terms of employment protection direction, employees' benefits, e.g. prohibiting employers from demanding or receiving security assets from employees as guarantee for jobs. The court has the power to order job contracts, employer's orders, regulations, etc. to take effect only when they are considered fair and appropriate in each case. The law covers use of labour, rest days, taking leave with numbers of days clearly specified, female and child labour protection, wages, Wages Committee, welfare and working conditions, job criteria, petition, work suspension, compensation, Labour Inspection Officer, Employees' Assistance Fund, etc.

98. The Labour Welfare and Protection Department is the focal agency mandated with the tasks of setting labour standards regarding working conditions, labour relations, labour welfare, work safety and health. The work of the Department is to help regulate minimum labour standard requirements so that they can bind concerned employers and employees. Labour standards at levels higher than what the law sets will be in the forms of promotion projects to encourage employers and employees to comply voluntarily. With regard to protection, the law ensures that employees both in public enterprises and in business firms in the private sector enjoy their rightful benefits as stipulated by the labour law, with due consideration of the basic rights in employment of all employees and the importance of eliminating discrimination in employment and occupation. The operational direction is as follows.

99. The Labour Relations Act 1975 provides for labour-related agreement on working conditions, principles and methods in dialogues and negotiations between employers and employees, and principles and methods in establishing organizations of employers and employees. Specific provisions in this law concern the establishment of this organization under Section 56 and state that those who have the right to found an employer's association must be employers of the same business type, are of the age of maturity, and hold Thai nationality. Furthermore, Section 88 states that those who have the right to found a labour union must be employees of the same employer, or employees working in the same business type regardless of the number of employers, are of the age of maturity and hold Thai nationality. This law guarantees the right to all employers and covers all employer's organizations at all levels, be they the employers' association, or a federation of employers' organisations, regardless of the employers' nationalities. The same applies to all employees by the definition of this law; they can join any employees' organizations of all levels, be they a labour union, or a federation of labour unions, regardless of the employees' nationalities.<sup>7</sup>

<sup>7</sup> From the statistics of the Central Registration Division, Office of Labour Relations, in April 2007, there are 1,722 labour organizations nationwide, 576 of which are in Bangkok, and 1,146 organisations in the regions (1 in 3 or 33.5:66.5 %). There are 45 Labour Unions of public enterprises with 170,830 members; 1,229 labour unions in private companies, with 326,950 members. On top, there are 16 Federations of Labour Unions in private companies, 1 Federation of Public Enterprises' Labour Unions, 11 Councils of Employees' Organisations, 405 Employers' Associations, 3 Federations of Employers' Organisations, and 12 Councils of Employers' Organisations, with a

100. The Labour Protection Act 1998 and its Second Amendment 2008 specify the working conditions and the benefits or minimum remuneration that employees in private enterprises must receive from their respective employers. This is a measure of protection extended to all employees equally, regardless of their nationalities, and including illegal migrant workers, whose basic labour rights are protected under this law, in the same manner as for employees of Thai nationality. The law gives importance to eliminate discrimination between male and female employees, aiming at protecting both male and female employees' basic working rights equally. Section 15 specifies that an employer must treat male and female employees equally in employment, except when that cannot be done due to different natures or conditions of work. This is a guarantee that the remuneration packages agreed by the employer to his/her employees in the company are equal between male and female workers, whether they be regarding the benefits, e.g. training to enhance knowledge, etc., labour welfare, e.g. travel allowance or other payment such as per diem, or in setting retirement age. With regard remuneration for the work done that employees must receive, wages or salaries are considered fundamental rights which are crucial to the livelihood of both male and female employees. The law thus gives additional legal guarantees that in the case of similar nature, quality and quantity of work, the employer must pay the same rates of wage/salary, overtime payment for work on weekdays and on weekends and public holidays to his/her employees equally, regardless of male or female gender.

101. Thailand's ratification of the International Labour Organization Conventions (data in the core document) means the country has made commitment to undertake the mission as a state party to the International Labour Organization (ILO), in the same manner as other states parties that have to implement under the ILO's Charter. The Ministry of Labour is the main agency responsible for implementing in compliance with the ILO Convention, starting with reviewing, revising and giving comments on the Draft Protocol, preparing the Country Report on Implementing the Protocol, including preparation of a report on domestic laws and practices which correspond with the ILO standards, or compilation of clarifications about problems and threats in implementing to comply with the ILO standards. However, a crucially important mission as a member country is to promote basic labour rights, improve the working and living conditions of workers, and to expand opportunities for employment. In other words, the mission is to implement in compliance with the ILO Labour Standards, with firm determination to improve and develop domestic laws and practices on the elimination of discrimination in work remuneration. The Ministry of Labour has therefore undertaken steps to ratify ILO Convention No. 100 on Equal Remuneration, 1951 on 8 February 1999, and has prepared periodic reports on the results of Thailand's implementation under the ILO Convention at a regular period of every two years.

102. As for promotion measures, the Department of Labour Welfare and Protection has compiled the Thai Labour Standards (MRT.8001-2003) for enterprises of all types and sizes, especially export businesses to apply in their organizations on a voluntary basis. Thai Labour Standards 8001-2003 lay down management and system of practices towards employees in an organization to ensure a foundation that complies with the Labour Law and other regulations on labour. These standards add provisions to the Labour Law stipulations, particularly on non-discrimination, stating that "An enterprise must not practise or support any discriminatory practice in employment, payment of wages and remuneration, working, welfare, opportunities for training and development, promotion consideration, termination of employment or forced retirement for reason of differences in nationality, race, religion, language, age, gender, marital status, personal attitude, disability,

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combined total members of 497,780. Out of this, 255,620 members are in Bangkok, and 242,160 are in the regions, or at a close ratio of 51:49 %.

membership in a labour union, preference toward a political party, or other personal ideologies, etc.”

103. Any enterprise that wishes to develop its system of labour standards in order to qualify for a Thai Labour Standards 8001-2003 certificate must act according to the rules and operational guidelines of the Thai Labour Standards 8001-2003. It will have to go through a follow up and monitoring system, and an examination and evaluation on its operation accordingly. Specifically on remuneration and gender related discrimination, below is the set of criteria checklist:

- Employees must be paid overtime payment at a rate not lower than what the law sets for the work done outside normal working hours
- Male and female employees must be paid equal wages
- An enterprise must have its By-Law on Operation, particularly on Work Remuneration
- Welfare provision for employees must be based on equality and fairness principles
- Considerations for training, rotation, promotion or demotion must be based on merit and according to each employee’s capacity
- There must be a system or procedures in place at the enterprise for complaints/petitions in the case of any employee being discriminated against

#### **5 (e) (iii): Right to housing**

104. The Constitution (2007) added to the 1997 Constitution by stating that a person who has no place to live and has no income has the right to receive assistance from the state (Section 54). The National Housing Authority Act 1994 provides for an organization to deal with houses to meet the needs of the people, and for giving financial assistance to the people who wish to have houses of their own, or to those who want to do business with the National Housing Authority.

105. The National Housing Authority has implemented measures according to its mission in building housing units for the low-income people both in Bangkok Metropolis and in the regions nationwide. Yet, the units built are not sufficient to cater to the demand. Thus there has been keen involvement of the private sector toward investment in property development, building houses for sale, like in developed housing villages, making this business grow and expand at a very fast rate in Thailand. However, the low income people or the poor are still not able to access this housing service offered by the private sector.

106. The Community Development Institution, a public organization under the Ministry of Social Development and Human Security with its mandate to strengthen communities and community-based organizations, is another organisation responsible for realizing the right to have a place to live for all people. It has carried out the “Ban Mankhong (Secure Home) Project” and the Project to Solve the Problems of Land for Livelihood and Places to Live for Poor People in the Rural Areas. The details are as follows.

107. The Ban Mankhong Project aims to strengthen security of the low-income people living in densely-populated communities in big cities, together with other aspects of development in an integrated manner. The community people are empowered to be core players working with the local authorities and other related allies in development in order to solve their own problems systematically. The project started in 2003 and is still ongoing. It uses an implementation process as a tool to prepare the local communities for decentralization. Concrete results are major improvements in public utilities, environmental conditions, security in land and housing for the community people. The project supports community-initiated design and focus grouping on housing needs, and gathers data on

relevant implementation regarding housing. So far, the project has approved budgets in support of the urban process development for communities in 76 provinces of Thailand, totaling 100 projects in 211 towns/areas. Other budgets approved go to support the public utilities development projects in 65 provinces, totaling 423 projects in 164 towns/areas covering 774 communities and 44,375 households.

108. The Project to Solve the Problems of Land for Livelihood and Houses for Poor People in the Rural Areas aims to tackle the problem of not having land for livelihood for the rural poor people, which is a root cause to lack of occupation, income and security in life, and migration from the rural areas into big cities. The project seeks to create opportunities for the poor to maintain their land for livelihood in a sustainable manner, e.g. converting land which is unused or used non-cost-effectively into good effective use, arrangement for the certification of the right to land use for living and livelihood for security, improvement of soil quality, water sources, public utilities, as well as eradication of all conditions that disable the poor people to maintain their land for livelihood. The project's outcomes are: initiation of pilot projects on solutions to the problem of land for livelihood and living in 23 sites of the rural areas at tambon (sub-district) level, with 2,675 household beneficiaries. Some measures initiated are: conducting a survey on the state-owned land which is vacant or partially inhabited, and allocating them to the poor people for livelihood use through registration (Nakhon Nayok); procuring of land from private owners for building a new community with developed land for livelihood (Payao); solving the problem of certain national parks' demarcation ridding the citizens of their land for livelihood (Phetchaboon); utilizing of abandoned land owned by the declared non-performing loan (NPL) private debtors for shared benefit to the communities (Lampon); making community plans by allocating land to the people in trouble at 10 rais per case, building houses for a total of 127 families/households in trouble to live in, forming welfare groups to help one another in repayment of debts outside the financial system, establishing the Occupation for Income Fund to strengthen security of living for its members (Nan); supporting budgets for projects to solve the problem of land for living in 246 districts in 61 provinces; compiling history records of communities and aerial maps, covering 43 villages in the north, west and south; set up Joint Task Force for the Solution of Land in six sub-districts (Chaiyaphum).

109. As Thailand is an agricultural country, for the people in Thailand to have land for living means having a place to live and to make a living too. The enactment of laws on forests and land, such as the National Protected Forests Act B.E. 2507 (1964) and the Wildlife Conservation Zone Act B.E. 2507 (1964), aimed at controlling deforestation, reforestation and conservation and rehabilitation of forests and wildlife, has therefore affected the ethnic groups on the highlands, since they engage in agriculture for a living on those lands. The declaration of new protected forests, parks and conserved forests, has created areas overlapping with the land for livelihood of a large number of local people, farmers and ethnic groups on the highlands. This has resulted in turning those affected people into offenders, or forest encroachers. The ethnic groups on the highlands have fought to demand their right to land for livelihood through formed network organizations of the group of civil or people's organizations, e.g. Federation of Northern Farmers, Network of Northerners' Organisations, Assembly of Ethnic People of Thailand, Assembly of Northern Community Forests, Council of the Poor, etc. They have made demands for revision of the Forestry Act, quick enactment of Community Forests law, solution of the livelihood land in the forests problem, revoking of illegal land right certificates on public land, solving the status problem, and ending the arrest, right violations and development limitation against the original local people. A process has thus been established for a joint dialogue between the people organisations' group and the government sector, by setting up Committees or Task Forces, which have met to discuss and negotiate several times in the past. They are, for example, People Assistance Committee and the Joint Operation Centre

for the Solution of Problems of the Highland People. The outcome of the negotiations have led the direction for the problem solution, as appeared in the Cabinet Resolutions, the important ones being the following:

(a) Cabinet Resolution on 30 May 1998 addressed the problem of land in the forest zone, according to the measure and direction led by the National Forest Policy Committee to protect the remaining national forests, manage the protected forests and the conserved forests (e.g. national parks, wildlife conservation zones, mangrove forests, etc.), and with cooperation from the Forestry Department and the Office for Agricultural Land Reform. The measures include conducting intensive forest rehabilitation with the local people's participation, prohibiting further expansion of land for livelihood, moving the local residents out from the forest zones by supporting them with public utilities, occupational development and quality of life improvement, reorganizing and arrangement of sufficient land for livelihood for the people, mapping the forest border line, and finding solution to settle the disputes;

(b) Cabinet Resolution on 11 May 1999 addressed the problems faced by the farmers in the north regarding land, nationality, forests, and other pressing problems. The resolution led to negotiations and solution to settle the cases of land deeds being issued on the already inhabited land for livelihood of the local people in Lamphun, Lampang and Chiang Mai. Other outcomes are the granting of Thai nationality to the "Thai Phukhao" (hill tribes) peoples and the revision of the Forestry Act;

(c) Cabinet Resolution on 6 February 2007 is on the continuous and effective implementation by the principle of "man and the forest living together". The outputs are: the Project to Promote and Develop Participation of the Community People in the Forest Conservation Areas, the Forest Villages by the new plan, the Villages for the Conservation and Management of Water Sources, the Forest Protection Villages, guidelines on management of land for livelihood and village development, and development of security in the border areas and cooperation with the neighbouring countries to develop border villages.

110. The way forward in solving future problems regarding the management of resources between the state and the people, which affects a large number of ethnic groups, is to revise the Forestry Act and enact the Community Forest Act, which has been the people's demand and is seen as the main goal and hope in solving the problem of conflict of interest in the natural resources between the state and the people since 1989. The new Community Forest Act will establish community forests for conservation purpose and for effective use, promoting and reviving the "man and forest" way of living, as well as seeking cooperation in this matter by setting up committees to oversee the policy at the national and provincial levels. The committees set conditions and requirements in establishing community forests both in and outside the conservation areas. They are in charge of administering and overseeing the management of the forests and impose sanction on the violators/offenders. This is believed to be the best shared solution between the public and civil society sectors, which will benefit both parties. At the operation level, the Community Development Institution, a public organization under the Ministry of Social Development and Human Security, implements projects that are effective and yield concrete results toward the people in many areas of the country.

**5 (e) (iv): Right to public health services, medical treatment, social security and social services**

111. The Constitution states that every person has equal right to access public health services of good standard. Poor people have the right to receive medical treatment and care from state public health centres free-of-charge, and the services must reach out to the people and rendered effectively. Local organizations must be encouraged to take part in

preventing and eradicating dangerous contagious diseases efficiently and promptly. People aged over 60 years with no income have the right to receive assistance. Children and youth have the right to development and protection from the state. People with disabilities have the right to receive welfare, public facilities and other assistance from the state (Sections 52–55). The Constitution of 2007 has a policy to promote and support the development of public health, which will lead to sustainable good and healthy life for the people (Section 80 (2)).

112. Laws supporting the implementation of affairs in public health in Thailand are the following:

(a) The National Health Security Act B.E. 2545 (2002) systematizes the provision of public health services that are necessary for health and living by putting in place systems of medical treatment which are standard, effective and extensive for all peoples nationwide. Joint tasks are undertaken by the public and private sectors, with a Committee and the Office of National Health Security responsible for devising systems of administration and management, setting standards, managing funds, coordinating with local administrative agencies in implementing the policy at the local level to reach the standards and set quality, as well as overseeing and supervising the service units and networks in service delivery to achieve the standards;

(b) The National Health Act B.E. 2550 (2007) is a law with progressive thought on the prevention aspect by mobilizing health allies and partners in all sectors of society to participate in health strengthening. This is done through a process of developing public policies by laying down the National Bylaws on Health Systems as a guideline that sets policies and strategies on national health, supervised by the National Health Committee. The Bylaws are revised every five years to keep up with the social conditions. The Committee also supports the Health Assembly in tackling specific issues in certain localities to strengthen and promote local wisdom, protect consumers, disseminate knowledge and information on health, produce and develop quality public health personnel, manage financial affairs regarding health, set criteria and methodologies in follow up and evaluation of the national health system and the health effects from the public policies.

113. In practice, the Ministry of Public Health takes responsibility in public health affairs and medical treatment with the power of the two above-mentioned laws that cover health care, health security and health services, making it possible for the Ministry to provide services to every person in Thailand, regardless of race or ethnicity. Participation of the people in public health affairs is manifested in having Village Public Health Volunteers, who are local people in the respective communities playing a vital role. There is also a special project to select a number of youth from the southern border provinces (3,000 persons) for scholarships to study nursing in the different regions of the country.

114. To benefit the people with disabilities, there are the Quality of Life Enhancement for the Disabled Persons Act B.E. 2551 (2008), the Committee on the Rehabilitation of Abilities of the Disabled Persons and the National Office of Quality of Life Enhancement for Disabled Persons, under the Ministry of Social Development and Human Security being responsible for the operation.

#### **5 (e) (v): Right to education and training**

115. The Constitution states that every person has equal right to not less than 12 years of quality basic education provided extensively by the state free-of-charge. In the administration of education, the state has to consider participation of local administrative organizations and the private sector. The arrangement of training by professional organizations and the private sector under state supervision must be protected (Section 43). Research work must be protected (Section 42).

116. Important laws related to national education are:

- National Education Act B.E. 2542 (1999) and (2<sup>nd</sup> Amendment) 2545 (2002) has a set of goals to develop Thai people to their fullest potential, enable them to co-exist with other peoples happily, nurture democratic values and human rights principles regarding rights, duties, liberties, equality and human dignity. The law divides education into three categories: formal education and informal education, sets direction in education management, services, management of standards, quality, as well as the process of producing and developing personnel in education and in the application of technology for education.
- Compulsory Education Act B.E. 2545 (2002) sets nine years of compulsory education for all children aged 6–16 years. Parents must send their children to school in educational institutions. The Ministry of Education or the Local Administrative Organisations are responsible for arranging special education for children with physical, mental, intellectual, emotional, communication and learning deficiencies, children with physical disabilities, children who are not self-reliant and without parental care, disadvantaged children, or children with special abilities. The compulsory education provided for these special groups of children must be delivered using appropriate form and methodology. The law also sets punitive measures for those who violate and deprive their opportunities to go to school, or not reporting that there are children under school age in the house.
- The Ministry of Education Regulations on Proof of Admission of Students into Educational Institutions B.E. 2548 (2005) and the Cabinet Resolution dated 5 July 2005 set operational guidelines in the management of education for children in Thailand. All educational institutions are duty bound to admit children of school age to study in their institutions, with or without proofs, by using birth certificates or letters of certification of birth, or other proofs issued by the government authorities, or documents accepted by the Ministry of Education. In the case of absence of the afore-mentioned proof, parents, care-takers, or non-governmental organisations can present personal history records of the children, or the educational institution concerned can conduct an interview to note down personal history of the child concerned for record. In the latter case, when the child finishes school, he/she will be issued a personal proof of education, e.g. a certificate without any remark on it. The school concerned should only put a remark in the school report of students' admission. Therefore, every person, although without civil registration proof or without Thai nationality, can be admitted to educational institutions in Thailand, regardless of level/category/area. The state provides subsidies on per head expenses to educational institutions that arrange education for these persons, in the same manner as for Thai children from pre-elementary level to upper secondary level. The Ministry of Interior is assigned to issue ID number of 13 digits to these persons, and the Ministry of Education must arrange education for them using appropriate methodologies and techniques, especially for the children who have fled fighting in order to improve their quality of life and enable them to lead lives in harmony with others. At the local level, educational institutions are required to inform the number of these children to the local administrative organizations in order to allocate annual expense budgets accordingly.

117. In practice, Thailand has achieved significant progress in fulfilling the right to education, especially in ensuring that the right extends to every child in the country without discrimination in terms of race. The Ministry of Education Regulations B.E. 2548 (2005) and the Strategies to Solve the Problems of Status and Rights of Persons are important mechanisms to drive the operation toward concrete and tangible achievements.

**5 (e) (vi): Right to equal participation in cultural activities**

118. The Constitution sets policy direction on culture, by protecting the right of communities to uphold, practise and promote their traditions and customs, promoting local wisdom, art and culture at national and local levels, nurturing the values of unity bound by culture (Section 46).

119. The National Culture Act B.E. 2485 (1942) and the National Cultural Commission Act B.E. 2522 (1979) stipulate that existing national cultures must be preserved and promoted, by disseminating and implanting the values in the minds of the people. The setting up of the National Cultural Commission and the allocation of Promotion Funds should enhance research and maintenance work, and solve the problems related to culture.

120. Thai society is an open society that does not obstruct any culture from outside. It embraces diversities and integrates them harmoniously. The people in Thailand feel that they are all Thais, without any hindering thought about differences in race, religion, language or culture. Local dialects and cultures of each region are in use and in practice, preserving their identities with pride, while upholding the dignity of being Thai. In integrating cultural identities, the Thai society accepts identities of others as well as transfers its identities to others, an ideal give-and-take society in terms of identities and cultures.

121. In practice, the Ministry of Culture is responsible for the implementation of both promoting and preserving Thai culture. It works through extensive networks in the local areas of the country, in selecting and honouring “National Artists” in various fields annually, promoting local wisdom and cultures in all localities, setting up cultural watchdog centres in every province of Thailand, preserving and enhancing local cultures of all communities, regardless of race/ethnicity by regarding them as precious heritage of the nation. The Ministry also establishes local folklore museums about various ethnicities, with support from local academic institutions and organizations. It applies a strategy that brings in religious perspective to build peace and happiness in co-existence, by supporting activities of all religious organizations, organizing seminars to exchange thoughts and understanding among religions, disseminating information about the principles of every religion, organizing joint youth camps of every religion, involving around 3,000 young people per year to create understanding and promote acceptance of cultural diversities among youth. The Ministry also organizes seminars on Culture and Peaceful Means, promotes researches by providing funds for research and production of documents on culture extensively. There are works on ethnicities supported by the promotion fund, namely the Language Map of Ethnic groups in Thailand, Tracing Cultures of Ethnic groups, e.g. Thai Khern, Hmong, Gui, Thais of Chinese origin, Vietnamese, Muslims, ethnic groups along the Thai border, as well as researches on the relationship between ethnicity, natural resources and local wisdom in the north of Thailand. With all the ongoing operations and the concept of people’s participation, it is believed that the cultural rights of all ethnic groups in Thailand will be protected and promoted extensively.

**Article 5 (f): Right to access public places and services**

122. Thailand does not prohibit or divide people from accessing public places and services for reason of race.

**Group-specific rights promotion measures***Malayu-descended Thais*

123. The government has devised a set of rights promotion and development strategies for these Malayu-descended Thais who are an ethnic minority group in the country, but are

the majority population in the southernmost border area. These strategies cover several aspects.

124. *Structure*. Structural strategies are applied to achieve the following:

- (a) Enactment of law to give the right to the communities in managing natural resources by themselves based on their religious beliefs;
- (b) Solve the problem of unemployment;
- (c) Enhance effectiveness of the justice system and strength of the society by encouraging public participation in the preservation and development of the justice system, including monitoring and evaluation and recuperation systems, to be overseen by an independent committee which examines the use of power by the state in enforcing the laws of the country. This is done by adjusting the attitude and procedural practice of government officials, and enhancing the role of the civil sector;
- (d) Improve the Islamic law system to suit the circumstances in the South;
- (e) Revise the Act on Administration of Islamic Religious Organisations B.E. 2540 (1997) to cover the Muslim way of life comprehensively;
- (f) Maintain the diversity in the education system, and promote alternatives for Thai Muslim students in overseas countries.

125. *Culture*. Promote cultural diversity, e.g. declaring Pattani Malayu language an additional official language in the southernmost border provinces, and building cultural immunity to counter violence.

126. *Development*. Having the Southern Border Provinces Administrative Centre as the main agency responsible for the implementation of development projects in the southern border provinces to improve the quality of life of the Malayu-descended Thais. Furthermore, support is given to religious and community leaders to enable them to assist the people with difficulties in the area.

127. *Public Health*. Focusing on health care, medical services, public health that suits the Muslim way of life, with practices that correspond with Muslim culture, e.g. allowing the patient's relatives or midwives (Tohbidan) in the delivery room to give encouragement; allowing the "asarn" (welcoming ceremony) practice in first-born infants; group circumcision ceremony; the reading of the Koran to the critically ill patient in the Intensive Care Unit; letting the patient's relatives decide whether to allow an autopsy since Muslims do not usually want bodies to undergo autopsy (believing that the bodies will not be complete if this takes place); designating proper praying space in the in-patient building; adjusting the system in the canteen to make "halal" food; providing space and facility to warm food during the Ramadan fasting period, including the assembly of the Muslim staff, etc. In solving the problem of shortage of medical personnel in the area, there is a project to produce 3,000 nurses selected among the local youth to study in medical and nursing schools in different regions throughout the country.

#### *Migrant workers*

128. The Migrant Workers Group is a large group of persons who have been the focus of attention and care by various organizations in both the public and private sectors, including international organizations, especially those involved in labour, law, trade labour unions, as well as organizations that are driving democratic movements. Thailand has clear goals in tackling the problem of migrant workers, namely aiming to allow employment and legal import of workers under cooperation with the countries of origin, and with their acknowledgement. It focuses primarily on the labour that will serve the most needed sectors, and those that will not cause problems or undermine national security. Before that

in the years between 1996 and 2002, the solving of this problem tended to be ad-hoc and there was no cooperation from the countries of origin. It was mainly a relaxation of law allowing the migrant workers to take up restricted types of work and only in the designated areas. Only after 2000 that the policy of legally importing labour workers came into effect, with the practice of labour registration with the Ministry of Labour.

129. After the announcement of the alien labour registration, migrant workers were requested to report in 2001. From that point, the situation on rights protection has improved, and labour exploitation has been addressed more effectively.

130. Regarding public health, the migrant workers had to take medical check-ups as a measure to control and prevent six diseases (tuberculosis, leprosy, syphilis, filariasis, malaria, helminthiasis). Anyone with either of the following seven diseases or illnesses is not allowed to work: mental disease, mentally retarded, tuberculosis, leprosy, filariasis in critical stage whose symptom may be appalling to society, syphilis, drug addicted and chronic alcoholism. The above serves as precautionary and screening measures in order to get workers in good health, the same criteria used in recruiting government officials. Moreover, constant follow up on the progress in providing assistance to these workers has been carried out.

131. In handling the AIDS situation, there have been attempts from proactive workers at the local level, e.g. NGOs trying to coordinate with public health agencies to prescribe AZT for HIV-infected mothers, mobile medical units out at work, coordination with foreign public health volunteers to organize training for midwives and distribute delivery kits to midwife nurses, special projects for labour workers with high-risk behaviour, with AIDS Work Plans devised by public health officials in the provinces with a large volume of migrant workers by aiming at them directly, and with public health officials supporting the work of local NGOs.

132. Regarding reproductive health and maternal and child health care, a form of working as a network has been developed in implementing work on family planning and reproductive health among the alien labours group, coordinating with concerned agencies, emphasizing proactive services, conducting surveys on health conditions and using the outcome data to plan activities that are most relevant to the problems. Focus has been given to vaccination to boost immunization for children, reaching out specially to the children of migrant workers. Other activities carried out are organizing training for employers, publishing a Handbook on Health Care in Burmese language, providing maternal and child health care services and post natal family planning counseling, and training migrant workers volunteers.

133. In registering child births, the authorities have issued birth certificates to every child born, even despite the mother having no identity paper, in such case it will be recorded as, "according to witness account", or "no evidence".

134. Under the justice system, migrant workers are legally protected. The court has seen more lawsuits. Cases of violence against migrant workers have been tried under the justice system executing clear verdicts and punishment (e.g. the case of burning on tyre of six bodies, where the court has already sentenced the wrongdoer to imprisonment). Furthermore, there has been assistance from various organizations with regard rights protection directly and in training the migrant workers' group in order that they can help take care of one another, e.g. training by the Lawyers' Council which provides knowledge about all major conventions on human rights, several conventions on labour, as well as knowledge about claiming for remuneration/compensation, conducted in the form of lectures and hands-on exercises, supplemented by documents in Burmese language and cartoons. Most importantly, the Royal Thai Government has been constantly trying to improve the quality of life of these people.

135. In the aspects of status and working condition, the Labour Protection Act, enacted and effective since B.E. 2541 (1998), and its amended version (2nd Amendment) B.E. 2551 (2008) both give better protection to employees in terms of working condition and employment. While the Aliens Work Act of B.E. 2551 (2008) allow, for various reasons, persons without Thai nationality to apply for work permits, with considerations based on national security and social effects. The law also relaxes on employment of migrant workers (Burmese, Laotian and Cambodian) who have illegally entered Thailand to work since 1998, by the exception contained in Section 17 of the Immigration Act 1979. These workers are allowed to work in designated areas by holding work permits issued by the Ministry of Labour.

136. As for migrant workers who were originally classified as illegal immigrant labour, the law exceptionally provides them with special status to work on a temporary basis under the conditions set by the state. The Royal Thai Government has systematized employment during 1996–2006, according to 11 Cabinet resolutions on this issue, as follows:

(a) During 1996–2000, the registration started for only the migrant workers, and they were permitted to work in certain provinces and in certain sectors only. The workers had to buy Health Insurance Card (at 1,300 Baht each) to earn the right to access health services;

(b) During 2001–2003, the registration still focused on the migrant workers, but they were allowed to work in all provinces;

(c) During 2004–2006, there was an extension of this right to cover the migrant workers and their accompanies (including children aged 1 year up). This group of workers were registered with the 13-digit identity code starting with 00.

137. The next step involved strategy setting to regularize the status of illegal migrant workers into legal migrant workers. This was done through the signing of bilateral Memorandum of Understanding (MOUs), namely Thailand-Laos (2002), Thailand-Cambodia (2003) and Thailand-Burma/Myanmar (2003), which includes the process of verifying the nationality of the workers from their countries of origin. The workers then were issued with temporary documents for travel and work permits. Statistics of 2006–2007 (August) showed that as a result of this strategy, there were two batches of workers who have undergone the nationality verification and attained visas and work permits, 51,901 workers from Laos and 33,279 workers from Cambodia. Extension of stay in the Kingdom of Thailand was granted to these workers until February 2010.

138. Moreover, on public health, Thailand received financial support from The Global Fund to fight AIDS, Tuberculosis and Malaria, which focused on advocacy work and interventions for improved quality of life and risk-free life condition for these workers. The personnel involved carried out proactive work with the workers' group in the business sectors that employed foreign workers most. The Global Fund also supports researches and allocates funds for non-governmental organizations that work with the groups of population who are at risk of facing human rights violation and discrimination problems. The details on this issue were already presented above, under the sections on articles 1 and 5 (e) (i) and (ii).

139. The Displaced Persons Fleeing from Fighting Arrangement has been made to prepare an environment for easy adjustment of the displaced persons in preparation for their durable solutions including resettlement. Held at the centre were vocational training and an arrangement of the way of living and environment within the centre to be as community-like and as close to the real way of living of that locality as possible. Consideration of the concept of the justice system application has also been made to help solve the problem of disputes in the centre since 2003, with cooperation from various sectors including government agencies and the United Nations, namely the Ministry of Interior, Ministry of

Justice and the Office of the United Nations High Commissioner for Refugees (UNHCR). This is because, at one stage, there were a large number of offences. The victims were more ready to rely on the justice system based on their traditional customs than to resort to the justice system based on Thai laws and the principles of international laws. The result was that the victims did not receive sufficient remedy and compensation, while the offenders went unpunished or did not serve punishment proportionately to the crimes committed. Also, each shelter itself had no capacity to handle the execution of those punishments. It appeared therefore that many cases of offences went unsolved, even murder cases, a large number for which the offenders were not arrested. To overcome this, a practical solution was then implemented from B.E. 2547 (2004) as part of cooperation between the Royal Thai Government and UNHCR to improve the management of the justice system in shelters. The implementation was carried out in three stages. The first stage involved the joint setting of framework for administration and training of the personnel concerned on knowledge about rights and commitments of the displaced persons under the Thai and international laws. The second stage involved supporting the Thai officers in charge in increasing the capacity of the justice organizations in the centres, with focus on the cases of juvenile offences; setting up of legal aid centres for the shelter, a cooperation between the Royal Thai Government, UNHCR and the International Rescue Committee to facilitate investigation hence resulting in more case filing and trials. The third stage was to seek additional cooperation from the United Nations Children's Fund (UNICEF) and other non-governmental organizations to implement supporting projects in creating an environment which is conducive to protection by providing appropriate curative assistance and legal counseling to those facing problems, and in enhancing the capacity of women to take care of themselves and assist one another, in order not to become victims of violence within the centres, e.g. by increasing the number of woman representatives in the displaced persons' administrative bodies in various aspects, including the justice process, and by forming security guard units within the centres.

#### *Victims of trafficking*

140. The human trafficking problem is a consequence of the problems in resource management and failure in enforcing the law equally, not corresponding with the way of living of the ethnic groups. Most of the trafficked victims are originally women and children, partly from broken families among the ethnic groups in the country, who were neglected and whose rights were violated due to their dislocation from their original locality to a new place where they could not adjust well to the new way of living and environment. These people became victims of crimes in the form of modern slavery. Regarding this problem, nowadays some of the victims are displaced persons or the migrants groups who have been deprived and ethnically discriminated against more severely due to the stricter national policy to counter terrorism.

141. The anti-human trafficking operation in Thailand started in 1996, during the crackdown of a prostitution where victims were found to be children (under 18 years) trafficked from both within and outside Thailand, with Thailand in the status of source, transit and/or destination country. The Office of the Prime Minister by the Office of the National Committee on Women's Promotion and Coordination and the Office of the National Committee on Youth's Promotion and Coordination jointly undertook the implementation measures to tackle this issue by running campaigns to raise awareness and provide knowledge and understanding, devising operation plans to prevent and solve the sexual commercialization problem, revising laws relevant to this issue. These laws include The Prostitution Prevention and Suppression Act (1996), The Act on Measures to Prevent and Suppress the Trafficking of Women and Children (1997), a revised addition to the Criminal Code (14<sup>th</sup> Amendment, 1997) that increases punishment and gives power to the court to punish sexual offenders against children outside the Kingdom of Thailand. There

were measures revising the Criminal Procedure Code (20<sup>th</sup> Amendment, 1999), setting guidelines on child witness questioning, enacting The Money Laundering Prevention and Suppression Act (1999), classifying sexual offences involving procurement of persons for prostitution as one of the primary offences that may face punishment of asset confiscation, together with legal development. One concrete output was the signing of the first Memorandum of Understanding (MOU) among the government agencies involved in the operation (1999). After a period of serious implementation, it was found that the number of Thai victims declined, but the number of victims from neighbouring countries increased.

142. Then came the declaration of the National Policy and Plan on the Prevention, Suppression and Solution of Trafficking of Children and Women in Thailand and Overseas (Cabinet Resolution dated 1 July 2003), to be used as operational guidelines. The Ministry of Social Development and Human Security, upon taking up the task of tackling this problem, pushed the government to include this issue as a national urgent agenda. Eventually, the government announced the National Agenda on the Prevention and Suppression of Human Trafficking (6 August 2004), and a National Committee was set up with the Deputy Prime Minister as Chairman. The Committee laid down policy, structure and mechanism for the implementation on the protection and provision of assistance to all victims from human trafficking regardless of nationality according to the principles of human rights. It also set up the mechanism for the Operation Centre for Human Trafficking Prevention and Suppression at the provincial and national levels as well as in overseas countries. An initial fund of 100 million baht was granted to support the administration, but later transferred to be seed fund for the prevention and suppression of human trafficking under the Human Trafficking Prevention and Suppression Act B.E. 2551 (2008). Furthermore, there was an expansion of MOU signing, from between government agencies to between the government sector and the private sector, private sector and private sector, between groups of provinces in each region, and expanded from unilateral commitment to international ones, including the bilateral agreement between Thailand-Cambodia, Thailand-Laos, and the multi-lateral agreement of six countries in the Greater Mekong Sub-Region (Cambodia, China, Laos, Burma/Myanmar, Thailand and Vietnam). Training was given to the personnel involved, namely police officers, immigration officers, officers of the Attorney's Office, judges, doctors and officers of the Ministry of Social Development and Human Security. There was also an integrated project to prevent and resolve the problems of human trafficking and transnational organised crimes by the Department of Special Investigation, by exchanging data/problems, developing relations on news and communication and experience in the suppression work, as well as other projects by non-governmental organizations and civil sector networks in the forms of meetings, seminars and workshops, which would be expanded to ASEAN and global levels.

143. From implementing to rescue and assist the victims from human trafficking, Thailand finds that the problem has intensified and become more severe. There were cases of oppression, torture, intimidation and illegitimate exploitation like those committed by transnational organised crime rings. The Human Trafficking Prevention and Suppression Act B.E. 2551 (2008) was then enacted on 5 June 2008, dissolving the Act on Measures to Prevent and Suppress the Trafficking of Women and Children 1997 in order to assist the victims of these crimes toward criminal justice and additional remedy and compensation, regardless of nationality. The Act on Victim Compensation and Expense Reimbursement in Criminal Cases B.E. 2544 (2001) and Witness Protection Act B.E. 2546 (2003) are other legal instruments that support the right to receive compensation in the case of damage from criminal offences committed by others, and to provide protection from harm in the case of witness to help him/her testify in the trials where the person is a victim of the human trafficking crime. As part of the strong commitment to counter human trafficking, Thailand acceded to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and is preparing to accede as a State

Party to the United Nations Convention against Transnational Organized Crime, which aims to promote cooperation in preventing and counteracting transnational organized crimes toward increased efficiency, and to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

*Ethnic groups on the highlands*

144. The Royal Thai Government has made efforts to promote the rights of the ethnic groups on the highlands, including the right to hold a nationality, the right to housing, the right to education and public health, as already mentioned above in the sections on article 5 (d) (iii), 5 (e) (iii), 5 (e)(iv) and 5 (e) (v).

## **Article 6**

### **Protection and remedy**

145. The Constitution guarantees the right to protection and remedy by stating that the person who is the damaged party in a criminal case has the right to receive protection, appropriate treatment and necessary and fair compensation from the state. In the case of death, the next of kin has the right to state assistance. Any person as accused in a criminal case and detained during trials, if proved innocent or that his/her act is not a crime by the court verdict, is eligible by law for compensation, expenses and the return of the rights taken away (Sections 245–246). The mechanisms for protection and remedy according to Thailand’s judicial process consist of three main parties, namely the Courts of Justice, the Parliamentary Ombudspersons and the National Human Rights Commission in the Legislation as mechanisms to receive complaints and petitions and to examine rights violations, and in the Administrative branch, there are the Ministry of Justice which has its operation units, namely the Department of Special Investigation, the Department of Rights and Liberties Protection (Community Justice Centre and Justice Clinic); the Ministry of Interior having the “Damrong Dhamma” or Justice Upholding Centre in every province nationwide as its operation units at the regional and local levels, as well as other supplementary mechanisms by other government agencies, non-governmental organizations and civil society networks, which are working to assist the people whose rights are violated, and to monitor cases of rights violation and the work of the state.

146. Important state operational mechanisms in the protection and remedy work are two main laws that grant the power to make the operation happen and yield concrete results. The two laws are the Act on Victim Compensation and Expense Reimbursement in Criminal Cases B.E. 2544 (2001) and the Witness Protection Act B.E. 2546 (2003), which are laws that provide compensation and protection to those facing problems and damaged by criminal offences committed by others, or those who lose freedom temporarily during trials according to the judicial procedures or those at risk of safety. The tasks involved under these two laws are the mission and responsibility of the Department of Rights and Liberties Protection, Ministry of Justice.

### **Witness Protection Act**

147. The mechanism to guarantee protection and appropriate treatment is the Witness Protection Act B.E. 2546 (2003) that provides protection according to the special measure for witnesses who are at risk of being harmed in the cases stipulated by the law, namely drugs, money laundering, corruption, or customs. The protection by this special measure is carried out in the form of moving address, living allowance payment, change of name-family name, arrangement for appropriate livelihood, or others.

### **Act on Victim Compensation and Expense Reimbursement in Criminal Cases**

148. The mechanism to guarantee the right to request fair compensation from court is the Act on Victim Compensation and Expense Reimbursement in Criminal Cases B.E. 2544 (2001) that upholds the right to assistance from the state for the persons who have been affected by criminal offences committed by other persons, without any involvement in such offences, and without opportunity to receive remedy and compensation by other means. This law also guarantees the right to receive compensation in the case of a person as accused in a criminal case, having been detained during trials until the final court verdict that the accused is innocent. In practice, there is the Office for Financial Assistance to the Victims, with a committee to consider compensation for the victims, and reimbursement of expenses for the accused in criminal cases according to the set rates. Remunerations are for medical fee, physical and mental rehabilitation, or for loss of lives, compensated income during absence from work/occupation. Compensation and expenses are to compensate for the period of imprisonment, expenses in medical treatment and rehabilitation, compensation for loss of life, compensated income during absence from work/occupation, and trial handling expenses.

149. Since The Act on Victim Compensation and Expense Reimbursement in Criminal Cases B.E. 2544 (2001) became effective on 13 November 2001, there have been 11,346 applications for remuneration payment, 6,700 cases of which have been considered, and a total amount of 502,844,803.45 baht as assistance money have been paid. While 208 cases have been submitted as requests for witness protection. (See Tables 8 and 9.)

### **Other protection and monitoring mechanisms and organizations**

150. Furthermore, there are mechanisms for rights protection and monitoring of rights violation, which are independent organizations under the Constitution. They are:

- Parliamentary Ombudspersons (Sections 196–198) responsible for examining complaints about state use of power/ neglect of duties, which cause damage or/ are unfair to the people.
- National Human Rights Commission (Sections 199–200) responsible for examining acts of rights violation or neglect of such, proposing policies and laws on the promotion and protection of human rights, promoting education, cooperation, dissemination of knowledge on human rights, as well as compiling annual reports to monitor human rights situations in the country. This organization serves as vitally important mechanism for examining and receiving complaints (Tables 6 and 7).
- Constitutional Court (Sections 255–270) has the power to interpret and judge if particular clauses contradict or are not correct according to the Constitution.
- Courts of Justice (Sections 271–275) has the power to hold trials of general cases, consisting of three levels: Court of First Instance, Court of Appeal and Supreme Court, and categorized according to the nature of case, e.g. Civil Court, Criminal Court, Juvenile and Family Court, Labour Court, Customs Court, Intellectual Property Court and Dissolution Court, etc.
- Administrative Court (Sections 276–280) has the power to hold trials of cases of disputes between government agencies, government officials and the private sector due to acts or failure to act by government agencies or officials.
- Military Court (Section 281) has the power to hold trials of military criminal cases.

151. Apart from having the above-mentioned independent organizations under the Legislation and the Judiciary according to the Constitution to monitor, examine and protect human rights, there are organizations under the Administration that are directly responsible

for the protection of rights and liberties of the people, and a number of other non-governmental organizations.

152. The Ministry of Interior has its “Damrong Dhamma” or Justice Upholding Centre, established since 1994, having service units attached to the Provincial Administration Office in most provinces (service units available at district level in the southern border provinces). These service units handle cases of complaints due to acts or performance of government officials and staff of the public enterprises under the Ministry of Interior, Sub-District Chiefs, Village Headmen, and personnel of various local administration organizations.

153. The Ministry of Justice has its Community Justice Centre, established according to the strategy, *Equal justice for all, with people’s participation, for the local people to become partners and networks for justice*. The Ministry also has the Department of Special Investigation to control serious crimes that lead to damages in lives and assets, and rid the people of safety and human rights. There is the Department of Rights and Liberties Protection whose tasks are to lay down systems, promote knowledge about rights and liberties that every person is eligible to have by law, provide primary assistance and protection to the witness, the victim and the accused in criminal cases so that all people will get protection and care from the state extensively and equally. The Committee for the Promotion of the Elimination of All Forms of Racial Discrimination was set up by the Ministry of Justice to be responsible for producing periodic country reports, disseminating knowledge and understanding, recommending revision of laws and regulations about the elimination of racial discrimination. This Committee will in the future be the practical operational body of the Administration.

154. The Ministry of Social Development and Human Security, with its mission to develop and create justice and equality in society, has its Provincial Social Development and Human Security Officer in every province at sub-national level to handle complaints about violations of rights against children and women, as well as other vulnerable groups.

155. Moreover, in the civil society sector, there is the Tribal People’s Assembly of Thailand which was founded in 1999 as a result of the union of various ethnic groups that were facing rights violation problems in many aspects, and with support from civil societies in the north, to collectively demand for the government to resolve the problems about policies, laws and acts which are discriminatory against ethnic groups and peoples. There have been several rallies to demand rights, rights of ethnic groups, rights to culture and identity, political rights and the right to participate in the development process. The fight by the Tribal People’s Assembly and the network of other ethnic groups has for the ethnic people themselves brought back dignity and pride in their ethnicity and identity, created wider acceptance, done away with old prejudices and earned respect from the society toward their identity, culture and way of life. The strength of community-based organizations is therefore a vital force in the protection of the rights of the communities and ethnic groups. It is important to seriously enhance the capacity and strength of these organizations.

156. Apart from the Tribes People’s Assembly, there are networks of other ethnic groups, e.g. displaced Thais, Mogens and networks of ethnic groups in southern Esarn as well as organizations of various ethnic groups, network of the civil sector, media organizations and national and international non-governmental organizations, e.g. organizations of these ethnic groups: Hmong, Pakakayaw, Akha, Lahu; Assembly of Tribes People of Thailand, Inter Mountain Peoples Education and Culture in Thailand Association, Highland People Task Force, Hill Area and Community Development Foundation, Lawyers Council of Thailand, Union for Civil Liberty, the Mirror Foundation, Issara Institute, Thailand Journalists Association, UNHCR, etc.

## Article 7

### Strategies on education and teaching, culture and information technology

157. The dissemination of information about the International Convention on the Elimination of All Forms of Racial Discrimination in Thailand is considered to be in an initial stage, despite the existence of concepts and guidelines on human rights contained in the Constitution, national policies and several laws after the country's accession as a State Party to the Convention in 2003. Implementation in these fields is as follows.

#### Education and teaching/learning

158. The National Education Act sets the principle of education management that aims at developing Thai people in a comprehensive manner to enable them to live happily with others, with the learning process that aims to nurture democratic spirit and values and the human rights principles regarding rights, duties, liberties, equality and human dignity.

159. **Provision of basic knowledge about the Convention to the government agencies that have direct responsibility and other related educational institutions, e.g. the National Human Rights Commission and the Department of Rights and Liberties Protection.** There has been publication of the Convention in Thai-English, study of the guidelines on preparing country reports and production of the Handbook on the Preparation of Country Reports. Mahidol University has translated the general comments adopted by the Committee on the Elimination of Racial Discrimination.

160. **Building knowledge and understanding about the Convention through meetings, seminars, workshops, lectures and training organized by and with the concerned government agencies and organizations.** The topics are those contained in the curricula of educational institutions that teach human rights, equipped with documents for distribution. For example:

(a) Focus Groups conducted by the Department of Rights and Liberties Protection to study and identify problems rooted from race or ethnicity during the initial stage of preparing the first report under this Convention, including a total of 12 workshops in Bangkok and the regions nationwide to jointly prepare the report during 2006–2007. Through the conducted focus groups and workshops, information about the Convention has been disseminated, data collected, both primary and secondary data, and inter-agency cooperation sought in the preparation of the report;

(b) Lectures/Training on the Convention. Training courses have been organized for the personnel of the concerned agencies and organizations in all parties, namely the Parliament and the independent organizations under the Constitution in the Legislation; key ministries and departments in the Administration, e.g. Office of the Attorney General, Ministry of Justice, The National Security Council (Institution for Peace Strategies), Ministry of Social Development and Human Security, Ministry of Natural Resource and Environment, etc.; the Courts of Justice at every level in the Judiciary.

161. Through formal education, child rights is incorporated and taught at primary, secondary and university levels. There are curricula on ethnicity in humanities and social subjects in almost all tertiary educational institutions, focusing on social and cultural aspects. Institutions that run courses and teach human rights and rights of ethnic groups directly are for example, the Peace Strategies Study Centre and the Office of Human Rights Studies and Social Development under Mahidol University, and the School of Peace and Governance, King Prajadhipok Institute.

162. As for teaching and learning in the form of non-formal education, the Law Centre of Thammasat University has set up law classrooms on status and rights of persons in the central and local problem areas, in which the persons without personal identification status and other groups of persons deprived of their rights can learn about the process and procedures to apply and legitimately attain their right to personal identification status by law.

163. **Surveys and visits to places at risk of rights violation, e.g. prisons, facilities for juvenile offenders and training centres, welfare homes for various groups of disadvantaged people, including police stations and other agencies/organizations whose work relate to the protection of rights.** These surveys and visits have been conducted as a two-way communication to survey and listen to problems, exchange ideas and opinions and at the same time to provide information, knowledge, advice and suggestions about rights according to the Convention. These survey and visits have been undertaken by the National Human Rights Commission in collaboration with concerned agencies under the Ministry of Justice and the Ministry of Social Development and Human Security, the National Security Council and others.

164. **Disseminate and publicise the Convention through the channels of various forms of media, e.g. print media, radio, television, etc.** The Department of Rights and Liberties Protection has issued circulation letters to a total of around 400 government agencies and non-governmental organizations announcing Thailand's accession as a State Party to the Convention, explaining its key elements and Thailand's commitments, particularly the preparation of country initial and periodic reports as per requirement by the Convention.

165. Through the print media, the Convention in Thai/English has been published in various forms to reach organizations in the public and private sectors and the general public by the National Human Rights Commission, the Ministry of Social Development and Human Security, the mass media, the press, journals and magazines. Besides, there have been research studies and historical surveys by academics in educational institutions, published news and information, columns and articles on ethnicity published from time to time. And, when problems involving ethnic groups arose, there were some news coverage by the mass media, NGOs, and organizations of the ethnic groups themselves, radio, television, electronic media and the internet, but not much. Usually the news coverage and relevant information appeared on websites of newspapers, universities and NGOs, and through other media, e.g. P.O. Box of the Ministry of Social Development and Human Security, Ministry of Justice and the Department of Rights and Liberties Protection to hear about problems and give counseling suggesting solutions to the problem issues. Other media include exhibitions, voice recordings, recorded video clips, plays/drama, puppets, etc., although still limited.

166. **Academic research.** On the academic side, there have been research studies conducted by academic institutions, both at the national and sub-national levels. Furthermore, there have been documentaries produced, columns and articles on the rights of ethnic groups published from time to time, particularly when problems of rights violation arose involving ethnic groups. However, not much attempt has been made to relate these problem issues directly to the International Convention on the Elimination of All Forms of Racial Discrimination.

167. **Promotion and support for the personnel involved in the judicial process to adhere to the principles of equality and attention to equal rights under the court and justice system.** Training on human rights have been organized for the personnel involved in the justice process, detailing every step and procedure, by both the public and private sectors, namely:

(a) The Courts of Justice has held training for judges at every level, namely Assistant Judges, First Instance Judges and Senior Judges on the topics of human rights, child rights, women's rights, rights of people in general and rights of ethnic groups in special areas. The training of independent interpreters at national and regional levels have been included as an annual mission since 2003, producing not less than 60 interpreters a year to assist the persons who came into the justice system and could not speak the Thai language. Although the number of interpreters produced has not met the demand, there has been additional assistance from the private sector, e.g. the Lawyers' Council, community-based organizations of the ethnic groups and from international organizations;

(b) Training that includes the topic of human rights has been held for government officials involved in the justice process at various stages, namely policemen, attorneys, corrections officers, doctors and social workers. Such training has been given as part of the profession-specific orientation before new officers are put to work, or being promoted to higher positions at all levels. And as for policemen in several areas, they have practised announcing the eligible rights of the persons being arrested before they made the arrest;

(c) The Ministry of Social Development and Human Security has held training courses for the operation officers in the regions, whose work involves the prevention and solution of the human trafficking problem, namely the rural border police, Immigration police officers, Welfare and Labour Protection Officers, Social Development and Human Security Officers. These training courses are under a regular project that rotates project sites in different areas throughout the country. For example, General Training Course for Operation Officers, Training Course for Officers involved in Assisting, Rehabilitating, Protecting and Reintegrating the Victims of Human Trafficking, consisting of social workers, psychiatrists and medical and public health personnel mainly in the target group. Besides, the Workshop on the Preparation of Provincial Operation Plans to Prevent and Solve the Human Trafficking Problem is the training event that gathers personnel from the local administration agencies, non-governmental organizations and community networks. The Workshop for the Regional Anti-Human Trafficking Multi-Disciplinary Team, etc;

(d) The Ministry of Justice has held training for the concerned personnel involved in rights protection from various agencies, training of Witness Protection Officers, Corrections Officers, as well as training for the Community Justice Network.

### **Cultural**

168. The information has already been presented in section 5 (e) (vi) as above.

### **Information technology**

169. **The role of the media in the government sector.** Implementation has been carried out by the related agencies and task force units working intensively on enhancing reconciliation in certain areas of the country. For example, regarding the three southern border provinces, the main responsible agencies have cooperated to produce and disseminate materials containing information to raise awareness and understanding of the general public about the lifestyle, culture and religion of the Thai Muslims in that area. To illustrate further, the National Security Council has devised policies on conflict management by peaceful means and laid down national security policies that aim at creating an environment conducive to peace and happiness on the foundation of people's security. The National Reconciliation Commission has conducted a study of the situation in the three southern border provinces from the historical, social and environmental perspectives, and laid down a set of guidelines for the enhancement of reconciliation there, which have already been submitted to the government with a view to implementing them.

There are also a number of educational institutions and non-governmental organizations which are responsible for the implementation process.

170. There have been some instances of ethnic groups seeking cooperation from the media. Thus media mobilization is an area that should be further tapped by all sectors: the government sector, the private sector, the civil society and the ethnic groups themselves. However, the mass media organizations, either radio, television or newspapers, out of their professional ethics and social responsibility in presenting news and information to the public, have attempted to seek and compile information and stories on various issues from different sources and from different perspectives in order to reflect real situations and problems and open channels of communication through their news presentation, to promote good understanding among the various groups of people in the country and across nations. Certain groups of media, foundations, including non-governmental media organizations have played a role in closely reflecting the problems of the communities, the areas or the ethnic groups, especially in problematic areas.

171. A mechanism set up to be directly responsible for the Convention is the Committee on the Promotion of the Elimination of All Forms of Racial Discrimination of the Department of Rights and Liberties Protection under the Ministry of Justice, which was formed in March 2007. The duties and responsibilities of the Committee are to set implementation guidelines, prepare reports, propagate knowledge and understanding, and recommend amendments of laws, rules and regulations relating to the elimination of racial discrimination. The Committee has the power to appoint sub-committees to assist in its work, and three sub-committees were initially set up, namely the Sub-Committee on Laws and Measures, the Sub-Committee on Publicity and Public Relations, and the Sub-Committee on Country Report Preparation. This Committee on the Promotion of the Elimination of All Forms of Racial Discrimination will be the main organization in charge of planning on the matter and publicizing the Convention extensively in a systematic manner.

#### **IV. Implementation of the Durban Declaration and Programme of Action by Thai Government agencies**

172. None of Thailand's policies or laws condones division by social class, skin colour or race under constitutional monarchy and its social system. The Constitution of the Kingdom of Thailand B.E. 2550 (2007) contains principles that abide by the Convention and Durban Declaration and Programme of Action and it has provisions on principles of human rights and all forms of non-discrimination, i.e. Section 4, 5, 30 and 66.

173. The Ministry of Public Health has developed policy recommendations to enable people who have resided in Thailand for a long time or those who were born in Thailand but their nationalities could not be proved, to enjoy the Universal Health Coverage regardless of their nationality identification and civil registration status. The recommendations are being pushed for enactment into law based on the principle of creating a healthy society, in which disease surveillance, prevention and control is needed in order to prevent the spread of communicable diseases among all groups of population in Thailand without exception of any particular groups of people.

174. The Ministry of Public Health also set up the Migrant Health Committee to implement these five migrant health strategies as follows:

(a) Set up a public health services delivery system for the migrants, which suits their circumstances and takes into consideration their limitations;

- (b) Provide health security assurance to the registered migrants or ensure that they can enjoy the 'Universal Health Coverage';
- (c) Promote and support the participation of migrants and their communities in looking after individuals and their families' health;
- (d) Cooperate with the Ministry of Labour in developing an information technology system to collect data in all dimensions about the migrant;
- (e) Arrange administrative system to support the implementation of the aforementioned migrant health strategies.

175. Furthermore, the second part of the Durban Declaration and Programme of Action urges the State Parties to build and strengthen national mechanisms to promote and protect the rights of the patients of dangerous communicable diseases, such as HIV/AIDS. In this regard, Thailand has enacted the National Health Security Act B.E.2545 to ensure the rights of all HIV/AIDS patients to access to anti-viral drugs and medical treatment needed and social support.

176. The Ministry of Education gives importance to the management of education of all levels and for all people, whether Thais or persons without Thai nationality. The cabinet approved the proposal of the Ministry of Education on 5 July 2005 to implement measures to manage education for the persons without civil registration proof or status who live in Thailand, giving them access to enroll in any educational institutions of any level, category, course or education zone. The Ministry of Education has the power to allocate budget as subsidies to cover per head expenses to the educational institutions which arrange education for the persons without civil registration proof or without Thai nationality. As for the persons who fleeing from fighting outside Thailand, the Ministry has arranged for their education in the shelter centres, focusing on the teaching of Thai language to foster understanding and enable them to communicate properly, which has been an operation conducted in joint cooperation with organizations in the civil society sector.

177. The Ministry of Social Development and Human Security enacted the Human Trafficking Prevention and Suppression Act in 2008. The law provides for assistance, remedy, shelter and rehabilitation for the victims of human trafficking, Thais or non-Thais equally. The Ministry has also run a campaign to raise awareness about this Act, especially in areas where alien communities live.

178. The Ministry of Justice enacted the Act on Victim Compensation and Expense Reimbursement in Criminal Cases in 2001, specifying that financial assistance and remedy be given to all victims equally and without racial discrimination, and that legal assistance and the handling of complaints be serviced to all people promptly and without racial discrimination. Besides, the Ministry has compiled a set of National Standards on Treatment toward Prisoners or Violators, based on non-discrimination either by race, skin colour, gender, age, language or social background, as stipulated in the United Nations standards, e.g. Standard Minimum Rules for the Treatment of Prisoners, or principles with regard to detainees or prisoners.

179. The Ministry of Labour enacted the Labour Protection Act B.E. 2541 (1998) and (No. 2) 2008, aiming toward protection of equal treatment in employment, regardless of the race, nationality, age or gender of the employees. Most recently, the Ministry amended the Aliens Work Act B.E. 2551 (2008) to correspond with the current migrant worker situation, to improve welfare for migrant workers and prevent them from being exploited by employers. Moreover, the Ministry has implemented the registration of migrant workers who have entered Thailand illegally to legitimize them as legal workers. It has also entered into employment agreements with neighbouring countries in order to make Thailand's

management of migrant workers more balanced between the principles of human rights, which do not condone racial discrimination, and the national security considerations.

180. The Ministry of Interior improved the nationality law by initiating enactment of the Nationality Act (No. 4) B.E.2551 (2008), which provides for the restoration of Thai nationality to the persons whose nationality was revoked and denied by the Revolutionary Decree No. 337. This law guarantees the right to gender equality in the acquisition, loss and return of nationality; specifies conditions for the persons who were born in Thailand but were not granted Thai nationality regarding their stay in Thailand, with due consideration based on human rights principles as well as national security concerns. Besides, the Ministry revised the Civil Registration Act (2<sup>nd</sup> Edition) B.E. 2551 (2008), providing for birth registration and issuance of birth certificates to all children, as well as recording of civil registration and personal history for persons without Thai nationality who are residing in the kingdom.

181. The National Security Council – The National Security Policies, 2007–2011 set main objectives to enhance an environment conducive to making all peoples of the nation live in harmony amongst their cultural diversity, and respect equality and human dignity of one another. The policies also aim to promote cross-cultural learning, in order to avoid ethnicity-related insults, and to create positive attitudes of similarity and togetherness so that people can live together in peace and harmony. Moreover, the Council laid down “Strategies to address the problem about the status and rights of persons” in 2005 to solve the problem regarding displaced persons or illegal migrants from neighbouring countries. It had surveys conducted to record the personal history of the target people, and provided for these people to enjoy the essential basic rights, with due consideration based on a fine balance between human rights principles and national security concerns.

182. The Office of the National Economic and Social Development Board has integrated the protection of equal rights and liberties of the people and the elimination of discrimination in the 10<sup>th</sup> National Economic and Social Development Plan, 2007–2011. It has set directions and strategies for enhancing unity of the nation, so that all Thai people can live together happily in society. The plan aims to develop an economic and social protection system which is diverse and extensive; promote safe, pleasant and healthy way of living on the basis of social justice; strengthen the justice system in an integrated manner, along with reinforcing the exercise of laws; build conscience about rights and duties of citizens; and raise awareness about values and respect for human dignity to reduce conflict.

## V. Conclusion

183. Thailand is geographically situated at the centre of South East Asia Region, and has borders of longer than 4,000 kilometres. It is surrounded by neighbouring countries, the peoples of which migrate back and forth across one another due to economic and political situations. Therefore, Thailand has a mixed population, consisting of over 60 diverse ethnic groups, who have lived together for a long time.

184. The migration of the population in the region has made Thailand’s demographic structure in terms of ethnicity changing all the time, thus affecting its management of population and the status of persons, which are the root causes of human rights problems in other aspects. These problems are those such as people’s status, allocation of resources and land for cultivation, access to basic educational and public health services, labour and occupational problems, understanding the culture of one another, strength of local communities in the conservation of their own resources, culture, values and identity, knowledge dissemination and awareness raising about their own basic rights, lack of

systematic compilation of data about ethnic groups, lack of knowledge and understanding about human rights of law enforcement officers, and insufficiently effective law enforcement.

185. The Thai government has made continuous effort to address these issues. To date, gradual progress has been made, by building on the existing internal basic structures and mechanisms, which can respond to the problems to a certain level, both under the legal framework and in terms of policy. Another contributing factor is the tremendous support from organizations in the private and civil society sectors, which have played a strong role in fighting for the rights of various ethnic groups in Thailand for a long time. At the same time, community-based organizations have begun to play a clearer and stronger role in protecting the interests of their communities.

186. Thailand realizes that there are yet problems to solve, and is determined to continue its implementation in promoting and protecting the rights of all groups of people in the society, as well as in intensifying the provision of legal knowledge; educating about rights and liberties and awareness raising about basic human rights, with an aim to constantly improve the quality of life of all people, of every ethnic group in an equitable manner, so that all people will accept and respect equality and human dignity of one another, which is the foundation of peaceful co-existence.

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