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

Summary record (partial)* of the 30th meeting

Held at the Palais Wilson, Geneva, on Friday, 5 June 2015, at 3 p.m.

Chairperson: Mr. Sadi

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* No summary record was prepared for the rest of the meeting.

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

Consideration of reports *(continued)*

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

Initial and second periodic reports of Thailand (continued) (E/C.12/THA/1-2; E/C.12/THA/Q/1-2 and Add.1)

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

2. **Ms. Wuttisorn** (Thailand), replying to questions raised at the previous meeting (E/C.12/2015/SR.29), said that the country had been making progress in reducing poverty, but the benefits of economic growth needed to be distributed more evenly. Initiatives in that domain included the introduction of a minimum wage, energy subsidies, scholarships, cash allowances for children and older adults, the Thai Women Empowerment Funds and retirement savings plans. Efforts were also being made to reduce inequalities in terms of access to land, to upgrade infrastructure and transport modes, and to provide disadvantaged groups with greater access to justice. The available data on poverty and inequality were not disaggregated by ethnic group.

3. **Mr. Mancisidor** said that, while he welcomed amendments to the portions of the Criminal Code dealing with sexual exploitation and child pornography, it would be useful to know how many children had been victims of sexual exploitation in the country, what steps were being taken to raise awareness about that problem and develop an early warning system that could help avert cases of exploitation, and whether Thailand had signed any international cooperation agreements on the prevention of sex tourism.

4. **Mr. Muntarbhorn** (Thailand) said that the Criminal Code had recently been amended to make the possession of child pornography an offence and to widen the definition of child pornography to include forcing children to watch pornographic acts. The Government was taking a comprehensive approach to the prevention of trafficking in children and child sexual exploitation. As part of that effort, it was striving to provide greater access to education and to income-generating opportunities for families, setting up recovery and reintegration programmes for victims and working in cooperation with the private sector and other countries. The travel industry had adopted a code of conduct designed to help combat child sex tourism.

5. **Mr. Suriboonya** (Thailand) said that a strategic plan had been adopted for the prevention of human trafficking, with a particular focus on the protection of women and children. As part of a joint operation being undertaken with INTERPOL, flight manifests were checked against records of stolen travel documents to ensure that such documents were not being used by potential paedophiles to enter the country.

6. **Mrs. Patarachoke** (Thailand), responding to a question posed earlier that day, said that the Government had set up a committee to promote the “sufficiency economy” philosophy of sustainable development in communities across the country. Private-sector companies were also involved in that effort, and the Ministry of Foreign Affairs was sharing information about the concept with other developing countries; for example, it had held an exhibition on the topic at the recent Asia-Pacific Forum on Sustainable Development in Bangkok.

7. **Ms. Kanarat** (Thailand) said that the Government was addressing the problem of homelessness by rebuilding disaster-stricken homes, providing housing for low- and middle-income families, granting loans for the construction of residential buildings and

providing vocational training to homeless persons. It was also working with the United Nations Population Fund to cut the teenage pregnancy rate in half by 2024. To that end, life skills and sex education modules were being introduced in schools, and youth counsellors were being provided with special training on the subject. Under no circumstances would the courts permit a minor to marry an adult. The minimum age of marriage had been raised to 18 for both sexes, but the courts could authorize children between the ages of 13 and 17 to marry, subject to court-imposed conditions, provided that the marriage was consensual on both sides. The age of sexual consent was 15. A crisis centre provided assistance to women victims of violence.

8. **Mrs. Khomepatr** (Thailand) said that the Ministry of Justice was working on the final draft of a bill that would open the way for same-sex couples to enter into civil unions.

9. **Mr. Thanghong** (Thailand) said that, although the Labour Protection Act did not provide for paternity leave, male civil servants and employees of public-sector companies were entitled to 15 days paid paternity leave, and many private-sector companies were working with the Ministry of Labour with a view to providing similar benefits to their male employees.

10. **Mr. Roujanvong** (Thailand) said that women made up just under 17 per cent of the prison population, rather than nearly half, as one Committee member had said previously. The justice system was considering the possibility of making greater use of various alternatives to imprisonment, such as house arrest, electronic monitoring, mediation in cases of minor offences, suspended sentences and probation. Addicts were not dealt with as offenders. They were separated from the other prisoners and were treated as patients. The availability of hypodermic needles in prisons was not a major problem; the use of amphetamines was a greater concern.

11. **Mr. Suriboonya** (Thailand) said that the country's migrant detention centres were not at capacity. Nevertheless, there were plans to build an additional centre, and funds had been allocated to upgrade facilities in the southern part of the country.

12. **Ms. Benjasil** (Thailand) said that the Government's figures on disparities in land ownership differed sharply from those presented earlier by a civil society organization and mentioned by one of the Committee members. Official statistics indicated that, rather than 90 per cent of all land titles being concentrated in the hands of just 50 individuals or organizations, some 1.59 million people owned 61.4 per cent of all land titles. Detailed statistics would be provided to the Committee in writing, and the delegation would be happy to discuss the methodology used for their compilation with the Committee. The Government recognized the challenges that it faced as it strove to bridge the gaps between the rich and poor in relation to land ownership and use and to redistribute wealth by such means as land and inheritance taxes.

13. **Mr. Akaakara** (Thailand), referring to the Committee's general comment No. 7 on the right to adequate housing and on forced evictions and, in particular, to paragraph 15 on the need for appropriate procedures and due process, said that about 2 million people were allowed to live in State-owned forests while a solution for their situation was being sought. Some parts of the country had a long, complex history of land disputes between different groups or between local groups and speculators. Lengthy investigations were therefore required in order to resolve those conflicts. Evictions were conducted only on the basis of court rulings, and care was taken to provide notification in advance. Evicted persons received housing and occupational training from the Government and from non-governmental organizations. Local communities were given the opportunity to substantiate their claims, especially when they had lived in an area for generations. Many policies and programmes existed to protect land use rights, and the Office of Land Reform for Agriculture allocated land to farmers. Community projects had been launched to promote

the sustainable use of forest land. Longer-term solutions for landless farmers were being sought; 1.7 million hectares of land had been recovered thanks to efforts to reverse forest encroachment, and land-use permits had already been granted to 8,514 families in four different provinces. A further 20,000 hectares of land would be distributed to 5,600 families during the second phase of that initiative.

14. **Dr. Prakongsai** (Thailand) said that, although the birth rate in Thailand was decreasing, the number of pregnancies among women under the age of 20 had risen between 2000 and 2012. According to the Department of Health, approximately 130,000 of the 800,000 live births in 2012 had been to teenagers between the ages of 15 and 19. The birth rate for adolescents in 2012 had been 53.8 per 1,000 girls, as compared to 31.1 per 1,000 girls in 2000. Key strategies being used to lower that rate involved providing improved life-skills and sexual education to adolescents, strengthening the role and responsibilities of the family in childcare, fostering better communication among family members and in the community, developing high-quality, patient-friendly sexual and reproductive health-care services, and providing social welfare services for pregnant teenagers.

15. Efforts had been made to raise public awareness of reproductive health issues in the community, and a new reproductive health-care bill had been submitted to parliament for consideration. The issue of access to safe abortions was a politically sensitive one. Abortion was permitted only when the health of the mother was endangered or when the pregnancy was the result of rape or incest. The Government did strive to provide universal access to reproductive health services and to contraceptives, however.

16. The Government provided health insurance for 650,000 persons in an irregular situation and social insurance for documented migrant workers; a voluntary health insurance scheme existed for undocumented migrant workers. A nationwide health-care network ensured universal access to reproductive health care and essential health services for marginalized populations. Equitable access was provided to basic health-care services regardless of an individual's socioeconomic status or income. The Government assessed the cost-effectiveness and scientific purpose of new medicines and technologies before including them in the universal health-care package.

17. **Mr. Thanghong** (Thailand) said that his Government had already ratified International Labour Organization (ILO) Minimum Age Convention No. 138 and ILO Worst Forms of Child Labour Convention No. 182 and had amended its Labour Protection Act accordingly in 1998, raising the minimum age of employment from 13 to 15 years. Employers were required to notify the labour inspectorate within 50 days of the first date of employment of any child between the ages of 15 and 18. As part of the government agenda for combating human trafficking and child labour, persons under the age of 18 were no longer allowed to work on fishing vessels; the owners of eight fishing vessels found to be employing under-age workers had all been prosecuted for child labour offences for which the maximum penalty was a fine of up to US\$ 3,000 and/or imprisonment for up to 1 year. The Ministry of Labour and ILO were conducting a child labour survey in the canned products, garment and fishing industries which would be used in shaping labour guidelines and in establishing more efficient systems for tracking child labour.

18. **Mrs. Patarachoke** (Thailand) said that, regardless of nationality, all children who were born in Thailand were entitled to birth registration and other rights under article 7 of the Convention on the Rights of the Child. In 2014, birth certificates had been issued for 3,391 children born to displaced persons living in temporary shelters and, during the first seven months of that year, birth certificates had been issued for an additional 24,854 children born to non-Thai parents. Birth registration databases in 794 hospitals were linked with the national database of the Ministry of the Interior. All children in Thailand, including refugee and migrant children, were protected by the 2003 Child Protection Act.

Thailand was aware of its obligations under international law to uphold the fundamental human rights of children, regardless of their nationality; unaccompanied migrant children were taken care of in accordance with their needs. Migrant children who had travelled with their mothers were usually placed under the supervision of the Ministry of Social Development and Human Security; they had access to social workers and were housed in shelters with their families. Immigration detention facilities were being upgraded to ensure that they could accommodate families properly, and alternatives to detention were also being explored.

19. As to the question that had been asked regarding cross-border rights violations, legal disputes with sugar-cane companies in Cambodia regarding such violations were ongoing. The Government of Thailand would continue to work with the Cambodian authorities to resolve those matters; the types of remedies that would be made available would depend on what decisions the courts handed down.

20. **Mr. Ribeiro Leão**, referring to paragraph 15 of the Covenant, welcomed the cultural policy put in place by the Government, which, he understood, was implemented on the basis of four different strategies; he would nevertheless be grateful to receive concrete examples of the policy's application in practice.

21. **Mr. Kerdoun** said that Thailand had made significant progress in ensuring that the right to education was upheld. He understood that the Government had taken steps to ensure that school enrolment was not denied to disadvantaged children such as street children, orphans and abandoned children who did not have birth registration papers. However, the State party had not provided the type of disaggregated data on school enrolment and dropout rates that would have allowed the Committee to assess the progress made in that regard for different groups of children, including children with disabilities. What measures had the Government taken recently to protect the right to education for all children, particularly in border areas where teachers and schools had been attacked? It had been reported that the Government had devoted almost 15 per cent of its 2015 budget to education, but it was not clear what steps had been taken to reduce dropout rates, especially among children from poor families or who lived far from their school. He would be interested to learn whether there had been any improvement in school attendance. It was not clear how diplomas could be issued to unregistered children who could not prove their identity. It was commendable that loans were being granted to students who wished to pursue a higher education.

22. **Ms. Ravenberg** said that, despite reported improvements in access to education for child refugees and asylum seekers, it was the Committee's understanding that such children had difficulty gaining access to secondary and tertiary education or to the scholarships or grants available to Thai nationals. She would like to know whether the State party intended to take steps to rectify that situation. It appeared that indigenous children, many of whom lived in remote areas, were often deprived of their rights. For example, a school had been established by the Ministry of Education in 2005 for the Moken people of the Surin Islands, but it provided only four years of primary schooling, and children who had completed the course had not been provided with academic certificates, which hindered them from continuing their education. She would like to know what measures the State party would adopt in order to remove the obstacles facing indigenous children in isolated areas. She also wished to know what avenues were open to children seeking to avail themselves of their economic, social and cultural rights.

23. **Mr. Chen** said that he could not understand why school attendance rates had declined so rapidly in some areas, given the fact that the State party's education budget made up 20 per cent of its total budget.

24. **Mr. Kedzia** said that he wondered whether the State party was considering changing the policy whereby child refugees and asylum seekers were not eligible for scholarships or education grants in order to align it with article 13 of the Covenant and with the Committee's general comments Nos. 13 and 20.

25. The State party's policy on reducing deforestation had placed tighter restrictions on the access to land and resources of ethnic communities that had occupied the land for generations. Those communities relied on their land for their livelihood and for the preservation of their culture. According to the World Resources Institute, the recognition of the forest rights of indigenous peoples tended to help to reverse deforestation whereas the opposite was the case when such rights were denied. The State party might therefore consider the option of extending the communities' tenure rights instead of regarding their activities as illegal encroachment. In view of the fact that 60 land-rights activists had been killed or forcibly disappeared since 2003 and many others were being threatened, he would like to know whether investigations into such incidents were begun promptly and whether victims' families received suitable redress. Lastly, in a country with some 60 ethnic groups, a number of minority languages were at risk of disappearing, and he would like to know how the State party proposed to maintain the country's cultural heritage in that regard.

26. **Mr. Mancisidor** said that it appeared that the programme on bilingual and mother-tongue education had been very successful, but he was concerned by the fact that, after being in existence for nine years, it was still a pilot project serving only 35 schools. He wondered when the scheme would be extended to any community that so requested. Indigenous peoples should be consulted wherever possible concerning curriculum design and school administration, and especially regarding the recruitment of teachers. Lastly, he was concerned about the fact that article 112 of the Criminal Code relating to *lèse majesté* appeared to constitute a threat to the right to participate in cultural life. Writers and translators had been arrested and websites had been closed down under that article, and he would like to know what action the Government would take in that regard and whether it planned to free the people who had been arrested.

27. **Mr. Uprimny Yepes** said that the questions that he had intended to ask had already been raised, but he wished to stress the fact that land rights involved not just economic but also cultural rights: without land rights, indigenous cultures could not survive. As for the pilot scheme to provide bilingual and mother-tongue education, he welcomed its success but noted that it covered only 10 language groups. He concurred with Mr. Mancisidor that the *lèse majesté* law could result in the infringement of cultural rights. One case in point was that of Harry Nicolaides, an Australian writer who had been sentenced to 6 years' imprisonment for writing a novel that was regarded as having insulted the Thai royal family. Although his sentence had been reduced and he had subsequently been released following a royal pardon, he should not have been imprisoned in the first place.

The meeting was suspended at 4.30 p.m. and resumed at 4.45 p.m.

28. **Mr. Muntarbhorn** (Thailand) said that the population's deep reverence of the monarchy in Thailand was a very influential factor to be borne in mind, especially in view of all the political changes that the country had gone through in recent months. He would welcome the Committee's guidance on the *lèse majesté* law; however, because article 112 of the Criminal Code could be invoked by anyone against any other party, the underlying issue was actually what the mechanism for such action should be and who should be able to invoke that article. Thailand could learn from other countries' experiences in that respect. Moreover, the Government might consider whether it would be possible to make the mandatory term of imprisonment of from 3 to 15 years more flexible. The Ministry of Justice and other stakeholders had been screening potential cases of *lèse majesté*, but perhaps their screening procedures could be improved. It was an important issue, and its

analysis should be based on rational, sound lines of reasoning. He wished to note, however, that the Computer Crime Act was not pertinent to the discussion.

29. **Mr. Suriboonya** (Thailand) said that, according to the Office of the High Commissioner for Human Rights, there had been 33 victims of targeted killings of land rights activists; that figure was significantly lower than the figure cited by Mr. Kedzia. Be that as it might be, the police took such matters seriously and made every effort to investigate reports and bring offenders to justice. Compensation in excess of US\$ 2,000 had been paid under the terms of the Injured and Accused Persons Damages Act of 2001 to the families of Montha Chukaew and Pranee Boonrat. Further information was being sought on those deaths and on the killing of Chai Bunthonglek.

30. **Mrs. Suwansathit** (Thailand) said that, since the 1990 World Conference on Education for All in Thailand, the length of compulsory schooling had been extended from 6 to 9 years and, subsequently, 12 years of schooling had been made available to all. The enrolment rate in primary schools currently exceeded 95 per cent, and lower secondary-cycle classes had been opened in primary schools in all districts so that children could receive the full nine years of education. The secondary-school enrolment rate was also high. It was harder to ensure that tertiary education was available to all, but the continuation rate was nonetheless 76 per cent. Many students opted for non-formal venues so that they could earn a living while continuing their studies. The gender gap in that area was very narrow, but the disparity between the national average and the rate for marginalized groups was wider. The 20 per cent of the budget allocated to education constituted 4 per cent of the country's gross domestic product (GDP), but those figures had to be viewed in the light of the fact that education was extremely labour-intensive. It would be good to engage local communities in developing educational opportunities in their areas, but that approach had been experimented with in some areas and it appeared that it would not be feasible to extend that arrangement to all communities. A great deal of training was required before teachers were ready to work in bilingual schools, but her Government was hoping to expand the bilingual education scheme that it had been piloting with the help of NGOs.

31. Cultural rights were the least-understood rights of all. The issue had not yet been fully debated in Thailand, but the promotion of cultural and religious affairs, along with education, were among the 12 priorities recently set out by the Prime Minister. It was heartening to see that the latest budget allocation for cultural activities had increased by 13 per cent. When the Ministry of Culture had first been created, its budget allocation had amounted to only 1 per cent of the total budget. The Ministry was working to provide more opportunities for the public to learn about the diverse cultures of the various groups and communities in Thailand. Weekly museum nights had been launched in Bangkok, and provincial museums were encouraged to do the same. Art markets and cultural fairs had also been opened throughout Bangkok with a view to creating an environment in which the arts could flourish. The Bangkok Art and Culture Centre provided financial support to artists and areas where they could exhibit their work. The Ministry of Culture was working with the Ministry of Education and other agencies to provide non-formal, informal and continuing education opportunities to the public. It was also working with the Ministry of Commerce to foster artistic creativity throughout the country. The concept of heritage in Thailand included both the tangible and intangible aspects of the country's cultural heritage as well as its documentary heritage, which Thailand was helping to preserve by taking part in the Memory of the World Programme conducted by the United Nations Educational, Scientific and Cultural Organization (UNESCO).

32. **The Chairperson** said that he would like to thank the delegation for its interesting comments on cultural rights, but he would also like to point out that, for the Committee, cultural rights were not an abstract concept but were instead viewed within the parameters

of its jurisprudence on the subject, including its general comment No. 21 on the right of everyone to take part in cultural life.

33. **Mr. Abdel-Moneim** said that culture and education were inseparable and that the costs associated with both were unfortunately on the rise. He hoped that the Government would spare no expense in subsidizing education and culture, and he would appreciate further information about the various instructional models available in Thailand, including informal, non-formal and private education.

34. **Mr. Uprimny Yepes** asked the delegation to comment on how the existence of the criminal offence of *lèse majesté* in Thailand might hinder the right to participate in cultural life. To refer back to a subject discussed earlier, he would like to point out that, even though drug addiction was not formally criminalized in the State party, compulsory treatment could constitute substantive criminalization. According to information before the Committee, drug addicts were placed in detention centres administered by the army and were forced to undergo treatment. The Committee had been informed that, as a result, drug users stayed away from health-care services so as to avoid detention and compulsory treatment. The Committee would appreciate additional information on that situation.

35. **Mr. Muntarbhorn** (Thailand) said that several cases against persons accused of *lèse majesté* were currently being tried. The issues that had been raised in that respect included the provision on mandatory imprisonment contained in article 112 of the Criminal Code, the procedures used for screening potential allegations and the question of who should be able to invoke the provisions on *lèse majesté*. The Ministry of Justice needed to take a rational approach to the issue while remaining sensitive to the current context.

36. **Mr. Roujanavong** (Thailand) said that drug-related crimes constituted one of the greatest challenges facing his country; 74 per cent of prisoners in Thailand were serving sentences for drug-related offences. Women were increasingly becoming involved in international drug trafficking as carriers. A rehabilitation programme had been set up for persons arrested on drug charges. Those who were proven to be drug addicts could choose either to deny the charges and defend themselves in court or to accept the charges and receive a warning. Those who committed a second offence were sent to a clinic and were required to report regularly to a probation officer, while those who committed a third offence were admitted to a rehabilitation centre. There were various types of treatment centres; some were located in temples, while others were shelters run by an NGO. Only people suffering from the most severe addictions were sent to rehabilitation centres run by the Department of Probation of the Ministry of Justice, and they were considered to be patients rather than offenders. The drug that was most commonly used in Thailand was methamphetamine, which was produced across the border in the Golden Triangle area, where the Thai Government held no authority. His delegation would welcome the Committee's thoughts on how to address the problem.

37. **Mr. Mancisidor** said that the primary concern when dealing with cases of *lèse majesté* should be to ensure that article 112 of the Criminal Code was not applied in a way that would violate article 15, paragraph 3, of the Covenant.

38. **Ms. Bras Gomes** said that she had appreciated the opportunity to hold such a rich and constructive dialogue with the delegation. The discussion had provided a clearer picture of the successes achieved by the State party and the challenges still facing it. The Committee took note of the Government's reasons for not officially recognizing indigenous groups as such. While what was most important was the protection of their rights, official recognition as an indigenous group would also constitute a recognition of their marginalization and dispossession. She urged the Government to involve indigenous representatives and associations in a further debate on the subject. She was eager to see how access to justice would be guaranteed under the new Constitution. It would be a strong

sign of political will if the State party were to ratify the Optional Protocol to the Covenant. The Government should strengthen legal safeguards for refugees and asylum seekers and should review its current immigration legislation.

39. There was also a need to review the directives issued by the National Council for Peace and Order that were having adverse effects on human rights defenders and impeding the nation's citizens from enjoying their right to make use of land resources and their right to gain a living by work. The Government had a duty to protect people from violations of the Covenant committed by third parties, such as business enterprises, both in Thailand and in the wider region. She hoped that the State party would find the Committee's concluding observations useful when shaping its future policies.

40. **Mr. Roujanavong** (Thailand) said that his delegation appreciated the comments and recommendations made by the Committee and would give them serious consideration. His Government would continue its determined efforts to ensure that all people in Thailand fully enjoyed their Covenant rights. With regard to future dialogues, it would be useful if delegations were given more time to answer the questions raised and if they were allowed to use other media, such as video clips or slide presentations, to present information.

41. **The Chairperson** said that he appreciated the delegation's efforts to answer the many questions asked by the Committee. He urged the delegation to encourage policymakers in Thailand and the persons who were framing the new Constitution to give consideration to the Committee's concluding observations, which were intended not as a condemnation but rather as a tool to help the State party address the problems that it faced. He hoped that there would not be such a long delay in the submission of the State party's next periodic report.

The discussion covered in the summary record ended at 5.40 p.m.