



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues in relation to the second periodic report of Thailand*

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Taking into account that, according to the information provided by the State party, the Covenant is implemented by domestic law (see CCPR/C/THA/2, para. 7), please clarify whether the Covenant has the force of law in the State party and provide examples, if any, where its provisions have been directly applied or used by the courts to interpret domestic law. Please provide additional information about measures taken to raise awareness of the Covenant among, inter alia, judges, prosecutors and lawyers.
2. The Committee notes that the State party has withdrawn the declarations concerning articles 6 (5) and 9 (3) of the Covenant, but requests information on measures taken to withdraw the declarations concerning articles 1 (1), 2 (1) and 20.
3. In the light of the Committee's previous recommendations (see CCPR/CO/84/THA, para. 9), please indicate if the National Human Rights Commission and the Office of the National Human Rights Commission are adequately financed to carry out their functions and if the process for selecting members is in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Please also indicate the measures taken to ensure that the recommendations of the National Human Rights Commission are given full, timely and serious follow-up.
4. Please report on concrete measures taken to address impunity for ongoing human rights violations, investigate human rights violations committed by State actors and prosecute those responsible. Please comment on information that Order No. 3/2558 and article 48 of the interim Constitution establish de facto impunity for military personnel.

Non-discrimination and equality (arts. 2 (1), 3, 26 and 27)

5. In the light of the Committee's previous recommendations (see CCPR/CO/84/THA, para. 23), please clarify how the State party upholds migrant workers' rights and how it ensures that migrant workers are not discriminated against in law and in practice. In

* Adopted by the Committee at its 117th session (20 June-15 July 2016).



addition, please provide information on the number of complaints received during the period under review by the Office of the Ombudsman and the Office of the National Human Rights Commission and indicate whether there have been any investigations, prosecutions and sanctions in connection with allegations of violations of migrant workers' rights by their employers.

6. Please outline the measures taken to eradicate patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in all spheres of life. Please describe the specific measures adopted to promote gender equality and ensure the participation of women in various areas of public life and decision-making positions, in both the public and private sectors. Please also indicate if the State party is considering raising the minimum age of marriage, which is currently set as 17 years for both boys and girls and can be lowered to 13 years in cases of sexually abused children who marry their abusers.

7. Please describe the legislative or administrative measures and any recent court decisions taken to protect against discrimination on the grounds of sexual orientation or gender identity, including discrimination in employment and accessing education.

Violence against women (arts. 3 and 7)

8. In the light of the Committee's previous recommendations (see CCPR/CO/84/THA, para. 12), please provide information on the practical implementation and impact of the Domestic Violence Victim Protection Act and, in particular, on the possibility of reconciliation, withdrawal of complaints and possible charges. Please clarify if marital rape is considered a crime under the provisions of the law. Please provide statistical information on the number of complaints filed concerning all forms of violence against women and the number of convictions handed down, including the sentences imposed and the compensation awarded to victims, during the period under review. Please indicate if the one-stop service crisis centres are provided with sufficient financial resources to perform their functions.

States of emergency (art. 4)

9. Please indicate the steps taken to guarantee that states of emergency comply with the provisions of the Covenant with regard to both the rationale and the scope of the corresponding derogations. Please also indicate if the derogation of article 4 (1) implemented on 8 July 2014 and lifted on 1 April 2015 is still being applied in some provinces of Thailand and which other articles have been subject to derogations.

Right to life and prohibition of torture and cruel, inhuman or degrading treatment or punishment (arts. 2 (3), 6 and 7)

10. Please provide data on cases where the death sentence was imposed for offences related to drug trafficking. Please provide information on the new anti-corruption law, which extends the death penalty for corruption offences in public office to officials from foreign countries. Please clarify whether a de jure or de facto moratorium on the death penalty is being considered (see CCPR/CO/84/THA, para. 14).

11. Please report on measures taken to define and criminalize the offence of torture and enforced disappearance in accordance with international standards. Please also provide information on:

(a) Reports of the unlawful use of force and violations of the right to life by State agents, in particular in the form of enforced disappearance, torture and extrajudicial killings, including during the state of emergency in the southern border provinces;

(b) Steps taken to establish an independent external monitoring mechanism to investigate allegations of unlawful acts committed by law enforcement officials;

(c) Measures taken to conduct a prompt and effective investigation into the case of Kritsuda Khunasen, who was allegedly subjected to enforced detention and torture in May 2014 and was released on 24 June 2014 by the military;

(d) Measures taken to ensure that law enforcement officials act in a manner consistent with articles 6 and 7 of the Covenant;

(e) Measures taken to prevent human rights violations committed by State agents, to promptly and impartially investigate such violations, to bring the perpetrators to justice and to provide adequate remedies to victims.

Right to liberty and security of person, treatment of persons deprived of their liberty, right to a fair trial and independence of the judiciary (arts. 7, 9, 10, 14 and 17)

12. Please provide information on the interim Constitution promulgated by the National Council for Peace and Order and on Orders No. 3/2015, No. 5/2015 and No. 13/2016, and explain how they are compatible with the Covenant, notably its articles 7, 9 and 10. In particular, please explain:

(a) If Order No. 13/2016 provides for the right to habeas corpus in accordance with article 9 of the Covenant;

(b) How the provision of Order No. 13/2015 allowing persons arrested by “prevention and suppression officers” to be placed in unofficial places of detention is compatible with the Covenant;

(c) If the rights of detained persons to notify members of their immediate family about their detention and to have access to a lawyer and doctor from the moment of arrest are guaranteed;

(d) The rationale for expanding the police powers of the military as provided by Order No. 13/2015.

13. Please clarify whether military courts can try civilians and, if so, how and under what circumstances. Please indicate measures taken to transfer all cases involving civilians from military to civilian courts.

14. In the light of the Committee’s previous recommendations (see CCPR/CO/84/THA, para. 19), please provide information on measures taken to protect human rights defenders and community leaders against harassment, reprisals and attacks. In particular, please comment on reports received that the authorities have arbitrarily detained hundreds of individuals for demonstrating against the coup of 22 May 2014 and that detainees have often been held in undisclosed places of detention and have been denied the right to have access to a lawyer and to communicate with family members. Please also provide information on the recent detentions carried out for “attitude adjustments” and for participation in a “re-education programme”. Please comment on information provided that severe conditions were imposed on individuals detained for “attitude adjustment”, including the prohibition to carry out political activities.

15. Please describe measures taken to improve conditions in detention facilities, including to ensure adequate access to health care and clean water and to segregate pretrial detainees from convicted prisoners. Please explain what policies are being implemented to protect prisoners from violence and sexual harassment and whether allegations of such harassment are effectively investigated. Please report on the terms governing the use of shackles in prison and on death row.

Prohibition of slavery and forced labour (art. 8)

16. With reference to the information provided in the State party's report (see CCPR/C/THA/2, paras. 64-65), please provide updated information, disaggregated by age, sex and ethnicity of the victim, on the number of complaints, investigations, prosecutions, convictions and sentences that have been imposed in cases of human trafficking since the State party's initial report was considered. Please provide information on the measures taken to ensure effective implementation of the Act on Human Trafficking Prevention and Suppression (2008), in particular to strengthen and effectively enforce appropriate mechanisms aimed at the prevention and early identification of cases of human trafficking and at referring, assisting and supporting victims of trafficking. Please describe the impact of the Human Trafficking Prevention and Suppression Committee and the Human Trafficking Prevention and Suppression Coordinating and Supervisory Committee.

Rights to freedom of expression and association and to peaceful assembly (arts. 9, 17, 19, 21, 22 and 25)

17. Please indicate when the draft new Constitution, made public in March 2016, is expected to be adopted and provide information on measures taken to promote a public debate to ensure that all actors, including civil society representatives, members of political parties and journalists, are given the space to express their views without fear of reprisal or arrest. Please comment on reports that a bill on the referendum places limits on groups and individuals expressing their views on the draft Constitution. In particular, please comment on the decision taken on 29 June 2016 by the Constitutional Court that article 61 of the Constitutional Referendum Act, which provides for up to 10 years of imprisonment for anyone who criticizes the Constitution, is in line with section 4 of the interim Constitution, which guarantees freedom of expression. Please also indicate mechanisms in place to ensure that the draft Constitution is in line with the Covenant, in particular regarding the right to elect and to be elected.

18. In the light of the Committee's previous recommendations (see CCPR/CO/84/THA, para. 18), please indicate the number of criminal proceedings brought forward during the period under review against human rights defenders, journalists and other civil society actors for defamation (arts. 326-328 of the Criminal Code). Please indicate the measures taken to ensure that the Computer Crimes Act is not used to repress freedom of expression, in particular in cases of alleged defamation. Please also explain what legal and institutional safeguards are in place to protect users of e-mail and social media from government surveillance, which may arbitrarily interfere with their right to privacy.

19. Please respond to the allegation that the Government attempts to restrict the freedom of expression of human rights activists and that Orders No. 7/2014 and No. 3/2015 and article 116 of the Criminal Code have been used to detain individuals who have peacefully expressed their political opinions. Please comment on reports indicating that, since May 2014, the right to freedom of expression and peaceful assembly has been severely restricted, including through the banning of public events related to human rights and democracy.

20. Please explain how article 12 of Order No. 3/2558, which punishes with imprisonment non-authorized political gatherings of five or more persons, is compatible with the Covenant. Please also explain the criteria used to authorize political gatherings of five or more persons and provide examples of cases in which the holding of an assembly was prohibited and the reasons given for the prohibition, since the adoption of Order No. 3/2558 on 1 April 2015.

21. Please comment on information received indicating that, since 22 May 2014, the number of detentions for the crime of lese-majesty have dramatically increased and that individuals have been held in pretrial detention for long periods and systematically denied bail. Please explain how the crime of lese-majesty (see art. 112 of the Criminal Code) is compatible with the Covenant, in particular its articles 9 and 19.

Treatment of aliens and protection of children (arts. 2, 7, 9, 10, 13, 24 and 26)

22. In the light of the Committee's previous recommendations (see CCPR/CO/84/THA, para. 17), please provide information on measures taken to ensure that non-nationals, including refugees and asylum seekers, particularly from China, the Lao People's Democratic Republic, Myanmar, Pakistan and Viet Nam, enjoy their rights under the Covenant and that protection against non-refoulement is guaranteed in practice. Please indicate measures taken to establish a mechanism to prohibit the extradition, expulsion, deportation and forcible return of aliens to a country where they would be at risk of torture or ill-treatment, including the right to judicial review with suspensive effect. Please comment on reports of Rohingya asylum seekers and Bangladeshi survivors of human trafficking being pushed back. In addition, please respond to information that 109 male Uighur asylum seekers were extradited to China and 4,000 Hmong refugees and asylum seekers were extradited to the Lao People's Democratic Republic, with no assessment of their protection needs and in violation of the non-refoulement principle.

23. Please respond to allegations that undocumented migrants and asylum seekers are detained for lengthy and, in some cases, indefinite periods in immigration detention centres. Please provide information on the actual resort to alternatives to detention and on the ability of detained migrants to challenge detention. Please comment on reports received that undocumented asylum seekers and refugees are increasingly being subjected to arbitrary detention.

24. Please comment on reports that refugee and asylum-seeking children are subject to arrest, detention or deportation for unlawfully entering or staying in the country. Please also comment on information indicating that children are normally separated from their parents and placed in immigration detention centres, where conditions are harsh and the children are at risk of sexual abuse. Please provide information on the measures taken to protect the rights of unaccompanied children.

25. Please respond to reports indicating that conditions in immigration detention centres are very harsh and characterized by high levels of overcrowding, insufficient ventilation and lighting, and poor sanitation and hygiene facilities and health care.

26. With reference to the information provided by the State party (see CCPR/C/THA/2, paras. 66-75), please provide information on the impact of the measures taken to eradicate child labour. In particular, please provide updated information, disaggregated by age, sex and ethnicity of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences linked to cases of child labour since the State party's initial report was considered.

Statelessness (arts. 2, 24 and 26)

27. In the light of the Committee's previous recommendations (see CCPR/CO/84/THA, para. 22), please describe the impact of the Civil Registration Act (2008) and its provisions on birth and the late registration of children, in particular with regard to children belonging to ethnic minorities, including among highlanders, and asylum-seeking and refugee children. Please clarify if a monetary penalty is applied for late registrations. Please also indicate the measures taken to naturalize stateless persons who were born in Thailand and are living under its jurisdiction.

Rights of persons belonging to minorities (art. 27)

28. With reference to the Committee's previous recommendations (see CCPR/CO/84/THA, para. 24), please provide information on the measures taken to ensure effective consultation with indigenous peoples in making decisions on matters affecting their rights. Please also describe measures taken to ensure respect for the rights of persons belonging to minorities, including the right to enjoy their own culture, to profess and practice their own religion and to use their own language, in community with other members of their groups.
