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Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

Thailand

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

1. Thailand appreciates the recommendations received at the 12th Session of the Working Group on the Universal Periodic Review (UPR). Altogether, we received a total of 172 recommendations, 100 of which we were able to accept straightaway as they were easily determined to be consistent with our national laws, policies and practices. Thailand deferred our responses to the other 72 recommendations, which required further consideration. No recommendation was rejected by Thailand at the review.
2. Consultations were made with relevant agencies regarding the pending recommendations. We are able to accept a large portion of these recommendations, in whole or in part, with determination to implement them concretely. However, we are unable to accept some, which may be based on inaccurate information or which may imply an acceptance of negative assertions regarding some of Thailand's principal institutions and practices. Others have not been accepted by us due to the fact that they need further careful consideration at the policy level as they may involve changes to existing laws and regulations or have security implications. We will report on the progress made in a mid-term report to the Human Rights Council, as well as our national report to the second cycle of the UPR in 2016.
3. This addendum focuses on Thailand's responses to the pending 72 recommendations¹ by category.

I. Treaties

4. The following recommendations enjoy our support:
 - **89.1.** Thailand is aware of the importance of international human rights standards contained in the core human rights instruments mentioned in this recommendation. We therefore see merit in studying the possibility of becoming a Party to those instruments in order to enhance the country's human rights undertakings. However, our final position on each instrument will depend on the outcome of the related study.
 - **89.11, 89.12.** Thailand intends to become a Party to the CED and already signed the Convention on 9 January 2012. However, the ratification process will take some time as laws will have to be reviewed and drafted, and the decision to ratify the Convention will have to be approved by the Cabinet and Parliament. Thailand therefore wishes to reserve its position with regard to the word "promptly" in recommendation 89.12.
 - **89.18.** This recommendation is consistent with Thailand's voluntary pledges to withdraw our reservations to Article 16 of the CEDAW and Article 18 of the CRPD. Other reservations will continue to be reviewed on a regular basis. However, the acceptance of this recommendation does not imply that reservations made by Thailand under international human rights instruments contradict treaty law.
5. The following recommendations enjoy our support, in part:
 - **89.3, 89.4.** While Thailand accepts the recommendations for it to sign and ratify the CED as mentioned in Paragraph 4, we are unable to accept recommendations to sign and ratify ICCPR-OP1, ICCPR-OP2, OP-ICESCR and OP-CAT. Our position on these instruments will depend on the results of the study mentioned in Paragraph 4.

¹ Recommendations referred to in this document correspond to recommendations made to Thailand in the Report of the Working Group on the Universal Periodic Review (A/HRC/19/8, dated 8 December 2011) at paragraph 89.

- **89.2, 89.13.** Thailand accepts the recommendation for it to sign and ratify the CED, but is unable to accept the part recommending it to ratify the Rome Statute. As a Signatory, Thailand is committed to the object and purpose of the Statute, but we are in the process of studying implementing legislations before proceeding further.
 - **89.5.** Thailand will consider ratifying the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, given that a mechanism to review our position periodically is already in place. Regarding the OP-CAT, this will depend on the results of the study as mentioned in Paragraph 4. On stateless persons, a mechanism to further study the related convention is still needed. In the meantime, Thailand places priority on addressing statelessness issues through the implementation of the Management Strategy on the Problem of Status and Rights of Persons. Also, Thailand is unable to consider becoming a Party to the Rome Statute at this stage, for the reason already mentioned.
6. The following recommendations do not enjoy our support:
- **89.6, 89.7.** The reason is as mentioned in Paragraph 5.
 - **89.8, 89.9, 89.10.** Thailand will initiate a study on the content of the ICRMW and, subsequently, the possibility of becoming a Party to the Convention. However, we cannot prejudge the results of the study at this time. Although Thailand is not a Party to the ICRMW, it is committed to protecting the rights of all migrant workers in Thailand through various domestic laws and regulations. Indeed, the results of the study could be used, as appropriate, to enhance the country's relevant laws to be more in line with the international standards set out in the ICRMW.
 - **89.14, 89.17.** On the Rome Statute, the reason is as mentioned in Paragraph 5. Regarding the Convention on the Prevention and Punishment of the Crime of Genocide, a mechanism is first needed to study the Convention.
 - **89.15, 89.16.** Thailand will consider the possibility of becoming a Party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. However, we are unable to accept recommendations for us to become a Party to the said instruments at this time, which will prejudge the outcome of the consideration process. On the 1954 Convention relating to the Status of Stateless Persons, please refer to Paragraph 5.

II. Right to Freedom of Opinion and Expression

7. The following recommendations enjoy our support:
- **89.23, 89.24, 89.25.** Thailand has issued a standing invitation to all Special Procedures as part of our UPR pledges. We will consider favourably all requests for visits at a time agreeable to both the Thai authorities and the Special Procedures concerned.
 - **89.54.** Thailand's domestic legislation must necessarily be consistent with both the Thai Constitution and the country's international obligations, including the ICCPR.
 - **89.55.** As with other criminal cases, legal proceedings in cases concerning *lèse-majesté* are open and transparent in line with the Criminal Procedure Code.
 - **89.56.** Persons charged with *lèse-majesté* are accorded the same rights as persons charged with other criminal offences, which include the provision of legal counseling.

8. The following recommendations do not enjoy our support:
- **89.50.** Thailand is unable to accept this recommendation as it concerns amendment of the Penal Code. This would require a comprehensive study at the national level, taking into consideration all the relevant factors involved, including the views of all stakeholders and the social circumstances of the country.
 - **89.51.** The *lèse-majesté* law is a highly sensitive issue that concerns the security and unity of the nation. This matter is regarded as part of our domestic affairs, for which the Thai people will find an appropriate approach.
 - **89.52, 89.57, 89.59.** As the *lèse-majesté* law is part of our domestic affairs, whether the law would be reviewed or not will depend solely on the decision of the Thai people. The Thai Government has already stated that it would not take the initiative on review or amendment of the *lèse-majesté* law as the law does not aim to restrict the legitimate right of all persons to freedom of opinion and expression.
 - **89.53.** Thailand's judicial process is independent and is in accordance with international standards. Criminal proceedings in all cases including those involving *lèse-majesté* are carried out in accordance with the Criminal Procedure Code with relevant safeguards in place to ensure fairness.
 - **89.58.** The existence of the *lèse-majesté* law is indispensable for Thailand as it aims to protect the King as the Head of State, which is normal practice for any country under constitutional monarchy. Thailand is therefore unable to accept such recommendation to repeal the law.
 - **89.60.** The media in Thailand enjoys freedom to express opinions by all means in line with the ICCPR.
 - **89.61-89.64.** On the *lèse-majesté* law, please refer to the reasons mentioned above. On the right to peaceful assembly, this right is guaranteed by the Constitution. There is no law that restricts this right in accordance with the ICCPR.

III. Criminal Justice Issues

9. The following recommendations enjoy our support:
- **89.47, 89.48.** Thailand will proceed with our internal process to raise the minimum age of criminal responsibility to be more in line with international standards. The compulsory segregation of juveniles from adults in detention is already part of Thailand's current practice.
10. The following recommendations do not enjoy our support:
- **89.26 – 89.35.** Thailand is embarking on a process of studying the possibility of abolishing the death penalty, in consultation with the public and relevant stakeholders. However, pending the completion of this consultation process, Thailand is unable to accept recommendations to review or amend the law in regard to capital punishment, place a moratorium on or abolish the death penalty.
 - **89.46.** Thailand's internal laws comply with international standards of fair trial and do not allow excessive, unjustified detention. The Criminal Procedure Code specifies that the arrested persons shall be brought to Court within 48 hours. In some circumstances, the arrested persons may be detained for longer periods, but permission must be granted by the Court.

IV. Security Laws

11. The following recommendation enjoys our support:
 - **89.39.** This is consistent with Thailand's policies and practices. The improvement of the situation in the Southern Border Provinces of Thailand is one of the Government's top priorities, and the lifting of special security laws in the region is the ultimate aim of the Government when the situation improves. This has already been implemented in some areas in the deep South.
12. The following recommendations do not enjoy our support:
 - **89.19, 89.20.** Neither the Martial Law Act nor the Emergency Decree grants immunity for State officials. Section 17 of the Emergency Decree provides protection for officials only in circumstances where they have carried out their duties in good faith, in a non-discriminatory and reasonable manner, not exceeding the extent necessary. Moreover, it does not preclude the right of a victim to seek compensation for wrongful acts carried out by State officials.
 - **89.21, 89.49.** Thailand's security laws are consistent with its Constitution, which places importance on the protection of people's rights. The country is always aware of its international human rights obligations when applying the security laws in necessary circumstances. Under the Emergency Decree, juvenile offenders are treated differently from adult offenders. Juveniles can be detained only if permission has been granted by the Juvenile and Family Court. They are detained separately from adults.
13. The following recommendation enjoys our support, in part:
 - **89.42.** Thailand agrees with the second part of this recommendation and is determined to prevent impunity for perpetrators of human rights violations. However, we are unable to accept the first part of this recommendation for the reason mentioned in Paragraph 12.

V. Administration of Justice

14. The following recommendations enjoy our support:
 - **89.40, 89.41, 89.43.** These recommendations are consistent with Thailand's laws, policies and practices to bring perpetrators of human rights violations to account and ensure justice for all sides. It should be stressed that all cases of human rights violations in Thailand are duly investigated and prosecuted without exception, and compensation provided to victims.

VI. Children's Rights and Rights of Other Groups

15. The following recommendations enjoy our support:
 - **89.38.** Corporal punishment is already prohibited in schools and other alternative care settings. We are determined to improve the laws in order to prohibit corporal punishment in communities and families.
 - **89.65.** Under the current Universal Healthcare Coverage Scheme, sexual and reproductive health services are being provided to all persons, including sex workers, their clients and clients' spouses and partners without discrimination. As

part of the informal sector, sex workers also have the option of voluntarily joining the Social Security Scheme under the Ministry of Labour.

16. The following recommendation enjoys our support, in part:
 - **89.36.** As a State Party to the CRC, Thailand is committed to eradicating corporal punishment as well as the abuse and sexual exploitation of children, and to combatting the worst forms of child labour. However, Thailand is unable to accept the part of this recommendation to eradicate the recruitment of children by armed groups. While we are committed to protecting children from all forms of exploitation, we cannot agree to this phrase as we do not recognize the existence of armed groups within our territory.
17. The following recommendation does not enjoy our support:
 - **89.37.** The reason has been mentioned in Paragraph 16.

VII. Migrants and Asylum Seekers

18. The following recommendations enjoy our support:
 - **89.66.** Migrants, asylum seekers and victims of trafficking are protected under the Constitution and other laws, the enforcement of which we are determined to strengthen in line with our UPR pledges. Regarding asylum seekers, although there is no specific law in place, Thailand has implemented policy measures to provide assistance and protection for these persons, based on humanitarian principles and with the involvement of relevant international organizations.
 - **89.67.** Thailand has in place a national committee to establish both short- and long-term policies for migrant workers.
 - **89.68, 89.71.** Thailand adheres to international standards concerning rescue at sea and the principle of *non-refoulement*.
19. The following recommendations enjoy our support, in part:
 - **89.70.** Thailand agrees with the parts to respect the principle of *non-refoulement*, avoiding premature closure of camps on its Western border and meeting the protection needs of vulnerable persons, which are in line with our policies and practices. However, we are unable to accept the part to become a Party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol for the reason mentioned in Paragraph 6.
 - **89.72.** Thailand facilitates access of asylum seekers on its Western border to the Provincial Admission Board, which is our internal asylum procedure. However, while asylum seekers may readily access the UNHCR, we do not have a policy to facilitate their access to it. Therefore, we are unable to accept this part of the recommendation.
20. The following recommendation does not enjoy our support:
 - **89.69.** Thailand is committed to protecting the basic rights of all persons, including refugees, asylum seekers and migrant workers. Our current practices on displaced persons are also in line with international standards, and have been recognized by the international community. We cannot agree with this recommendation, which is unclear and seems to have an unfair negative connotation on Thailand's practices toward these persons.

VIII. Reconciliation Process

21. The following recommendations enjoy our support, in part:
- **89.44, 89.45.** Thailand will continue to strengthen the independence, effectiveness and resources of the Truth for Reconciliation Commission of Thailand (TRCT). However, we are unable to accept the parts of these recommendations to enact a law to provide the TRCT with the power to gather information and call witnesses or provide powers for the TRCT to subpoena and protect witnesses, as such a request has not been made by the TRCT to the Thai Government. We will only consider this matter once the TRCT submits such a request.

IX. Standing Invitation to Special Procedures

22. The following recommendation enjoys our support:
- **89.22.** Thailand has issued a standing invitation to all Special Procedures and is in the process of establishing an initial calendar of visits.
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