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The Permanent Mission of Thailand to the United Nations presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and would like to refer to the OHCHR's Notes dated 3 December 2012 and 15 January 2013 request member states to complete the questionnaire pursuant to Human Rights Council (HRC) resolution A/HRC/21/30 entitled "Elaboration of international complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination".

The Permanent Mission of Thailand has further the honour to convey the completed questionnaire by Thailand.

The Permanent Mission of Thailand to the United Nations avails itself of this opportunity to renew to the OHCHR the assurances of its highest consideration.

Permanent Mission of Thailand to the United Nations



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**Thailand's response to the questionnaire of the Ad Hoc Committee on the elaboration of
complementary standards to the International Convention on the Elimination of
All Forms of Racial Discrimination**

1. The phenomena of xenophobia in Thailand

Thailand is situated in Southeast Asia, one of the world's regions with great ethnical diversity of people. According to a research on the ethno linguistic map of Thailand, the combination of ethnic groups of people in the Southeast Asian region could be divided into five main language families. Thailand, as many countries in the region, is a pluralistic society with a mix of people of different races.

As a multi-cultural and multi-ethnic society for many centuries, the various challenges in ensuring a society which is based on respect and tolerance are not unfamiliar to Thailand. The Thai people, who comprise various ethnicities, have lived together in peace and harmony. Without a colonial past, successive governments have thrived on promoting a free and open market economy that embraces an open external orientation. This not only applies to tourists and temporary visitors, but also to the various races and ethnic groups who have made Thailand their home. A strong economy has allowed for substantial investments to be made towards social programmes benefiting the population as a whole without discrimination. Many of these programmes have had an inclusive character, particularly the Universal Health Care system and Education for All, not distinguishing between Thai and foreign nationals.

Thailand is also a country of origin, transit and destination of migrants. Hosting millions of migrants from neighbouring countries and beyond is a daunting challenge for the country. This has made migration management one of the Royal Thai Government's top priorities, especially in the context of the realization within Southeast Asia of an ASEAN Community by 2015. Thailand has been engaging with all stakeholders on this matter whether it be at the national, regional or international levels to exchange views and learn from the practice of others as to how best to manage migration in the country. There is currently a greater awareness of rights-based approaches and the interconnectedness of Thailand's international human rights obligations as they relate to women, children and other special groups and group rights and how these must be translated into effective laws and measures.

2. Legal and judicial frameworks to address xenophobia

Thailand has a clear stance on promoting and supporting good relations and equality among its people as well as people of other nationality who visiting Thailand and cooperation with all nations in upholding international justice that is essential for world peace. When becoming a State Party to the CERD in January 2003, policies, regulations, laws, and more importantly, *the Constitution of the Kingdom of Thailand of 2007*, that meets the principle and spirit of the CERD were already in place. Even though there is currently no specific legislation on racial discrimination in Thailand, the main substance of the CERD is already reflected in various pieces of domestic legislation. The Constitution of Thailand guarantees the equality of all persons and the prohibition of discrimination against any person on the grounds of birth origin, race, language, gender, age or other status as clearly states under Sections 4¹, 5² and 30³.

The issues of racial discrimination and hate speech have also been addressed under other existing laws and regulations. For instance, the *Human Trafficking Prevention and Suppression Act of 2008* does not make any distinction between Thai and non-Thai victims of human trafficking and allows non-Thai victims of trafficking to temporarily remain and work in Thailand for humanitarian reasons. Be they Thai or non-Thai nationals and regardless of their immigration status, are provided with assistance, remedies and psycho-social rehabilitation services.

Also, being a multi-ethnic society, one of Thailand's priorities is to ensure that all persons in Thailand have proper legal status, which will facilitate their access to various rights and public services. Over the years, laws and policies have been revised and new laws and policies put in place to better address this matter.

With regards to measures to prevent statelessness in children, those born in Thailand are entitled to birth registration under *the Civil Registration Act of 2008*. This is in line with our commitments as a State Party to the Convention on the Rights of the Child (CRC). Birth registration is provided particularly in remote areas, including in the nine temporary shelters for displaced persons from Myanmar. Late registration services are available with only nominal fees so as to encourage people to register in the first instance.

Other pieces of legislation have been enacted and revised which contribute to the effective implementation of the CERD in Thailand. These are, for example, *the Nationality*

¹ Human dignity, rights, liberty and equality of the people shall be protected.

² The Thai people, irrespective of their origin, sex or religion shall enjoy equal protection under this Constitution.

³ All persons are equal before the law and shall enjoy equal protection under the law...Unjust discrimination against a person on the grounds of the difference in origin, race, language, sex, age, physical or health condition, personal status, economic or social standing, religious belief, education or political views shall not be permitted.

Act (Amendment 5) of 2012 which aims to reinstate Thai citizenship to displaced Thais who have been deprived of Thai citizenship due to historical facts concerning past changes in the national boundaries. Once it is verified that they are Thai, they will be reinstated with Thai nationality by birth, which enable them to have basic rights and freedoms as same as other Thai people.

In order to address any inconsistency between existing laws and the Constitution, the Law Reform Commission has been established with the mandate to amend and develop domestic laws to ensure their compliance with the present Thai Constitution. *The 2010 Law Reform Commission Act of 2010* stipulates that in carrying out its mandate, the Commission should take into account various principles, one of them is the promotion and protection of the basic rights and liberties of all persons.

The Tribal People's Assembly of Thailand, which is a union of various ethnic groups, has worked alongside the government sector to bring to the government's attention any law, policy or act which is discriminatory against ethnic groups and people.

With regard to the prohibition of hate speech or racist propaganda, even though Thailand has no specific law on the matter but several laws, namely, *the Computer Crimes Act of 2007 and the Internal Security Act of 2008* prohibit and criminalize hate speech. In addition, insulting others, announcing propaganda or committing an act of insult towards religious objects or places are offences punishable under *the Thai Criminal Code*. Any broadcasting programme which causes an insult or damage to any religion is also prohibited under *the Radio and Television Broadcasting Act of 1955*.

Apart from the laws, Thailand's First and Second *National Human Rights Plans of Action* recognize the issue of discrimination on religious grounds. The Second National Human Rights Action Plan (2009-2013) coordinated by the Department of Rights and Liberties Protection, Ministry of Justice, attaches great importance to the protection of the rights of ethnic groups. It also focuses on the promotion of understanding of differences in race, ethnicity, language and religion in a multi-cultural society. One out of four key strategies of the National Human Rights Action Plan clearly indicates measures concerning ethnic groups. Network agencies and community agencies in areas with ethnic groups are encouraged to share experiences on working with ethnic groups or people with different religions and languages, in order to create a value that respects human rights of people with different backgrounds.

3. National mechanisms to protect against and prevent all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance

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 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.

The Ministry of Public Health has also set up the Migrant Health Committee to implement these five migrant health strategies as follows: (1) Set up a public health services delivery system for migrants, which suits their circumstances and takes into consideration their limitations; (2) Provide health security assurance to the registered migrants or ensure that they can enjoy 'Universal Health Coverage'; (3) Promote and support the participation of migrants and their communities in looking after individuals and their families' health; (4) Cooperate with the Ministry of Labour in developing an information technology system to collect data in all dimensions about migrants; and (5) Arrange administrative system to support the implementation of the afore-mentioned migrant health strategies.

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 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.

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.

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 on the Treatment of Prisoners, or Principles on Detainees or Prisoners.

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 ensure that Thailand's management of migrant workers is more balanced.

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 (2nd 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.

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 and 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 on the status and rights of persons” in 2005 to solve the problem of displaced persons or illegal migrants from neighbouring countries. Surveys were conducted to record the personal details of the target people, and provided for these people to enjoy essential basic rights, with due consideration based on a fine balance between human rights principles and national security concerns.

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 10th National Economic and Social Development Plan (2007-2011). It has set directions and strategies for enhancing the 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 the rights and duties of citizens; and raise awareness about the values and respect for human dignity to reduce conflict.

4. Complaint mechanisms

In terms of complaint mechanisms, there are several mechanisms which receive complaints on human rights violations at both the central and local levels, such as *the Justice Centre under the Ministry of Interior* and *the Community Justice Centre under the Ministry of Justice*. The provincial social development and human security officers under the Ministry of Social Development and Human Security also receive complaints from individuals. There are also human rights and liberties protection officers of the Ministry of Justice based in all provinces of the country who receive complaints and provide advice concerning human rights and the judicial process. Meanwhile, the Office of the Attorney-General can also provide advice, while the National Human Rights Commission of Thailand is an independent organ under the Constitution that receives and acts on complaints.

The knowledge of these mechanisms is disseminated through various channels, such as the internet. Also, human rights protection volunteers in all provinces of the country work at the local and community levels to ensure that the local population understands their rights and are able to access various complaint mechanisms available to them. They also refer cases to the rights and liberties protection officers at the provincial levels for further consideration and action.
