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PATANI WORKING GROUP
for Monitoring on International Mechanisms



THAILAND

Joint UPR Submission to the UN Universal Periodic Review

39th Session of the UPR Working Group

Armed Conflicts & the Human Rights Situation in the Southern Border Provinces in Thailand

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Submission by:

The Patani Working Group for Monitoring on International Mechanisms: Working to connect and communicate between international mechanisms both at the regional and global levels with the Southern Border Provinces of Thailand

Civil Society Assembly For Peace (CAP): CAP is a network focusing on the approach to peace in the Southern Border / Patani through the participation of people in accordance with democratic principles and respect for universal human rights. There are 28 network organizations participating in this submission: 1. *Muslim Attorney Centre Foundation (MAC)*; 2. *Southern Paralegal Advocacy Network (SPAN)*; 3. *Patani Human rights Organization Network (HAP)*; 4. *Patani Intellectual Network (INSOUTH)*; 5. *Youth Integration For Community Empowerment Center (YICE)*; 6. *Persatuan Perempuan Patani (PERWANI)*; 7. *Bunga Raya Group Patani*; 8. *Pusat Budaya Melayu Patani (BUMI)*; 9. *Pusat Pengembangan Kebudayaan Islam (PUKIS)*; 10. *Persatuan Intelek Cinta Seni Budaya (PICSEB)*; 11. *Nusantara Foundation For Human Rights And Development*; 12. *Public Health officer for Social Welfare (PHOS)*; 13. *Justice For Peace (JOP)*; 14. *AD-DIN Perubatan dan Kesihatan Awan (AD-DIN)*; 15. *Patani Youth of Changes Network (YouthNet)*; 16. *Jaringan Mangsa dari Undang-undang Darurat (JASAD)*; 17. *Jaringan Belia-Lembangan Sungai Saiburi (JALEM)*; 18. *Jaringan Menggalak Etika Islam (JATI)*; 19. *Jaringan Guru Sekolah Melayu / Tadika*; 20. *Pencinta Sejarah Patani (PSP)*; 21. *Persatuan Silat Harimau Patani (PerShap)*; 22. *Jaringan Wanita Membela Hak Asasi Patani (JAWANI)*; 23. *Jaringan Remaja Menuntut Hak Asasi untuk Pengembangan (JAP)*; 24. *Lembaga Guru untuk Penelitian System Pendidkan nusantara (TI)*; 25. *Social biznet network (SBN)*; 26. *Socail Development Organization (PERTAMA)*; 28. *Pusat Perhubunggan Jaringan Memgsatahanan (TEMAN)*.

The Federation of Patani Students and Youth (PerMAS): For organizations that connect Patani student representatives both domestically and internationally. The base organizations of PERMAS include 30-37 organizations, both independent and international student club organizations.

Manushya Foundation is a women-led and innovative non-profit organization with the goal to reinforce the power of local communities, in particular women human rights defenders, so they can advance their human rights and fight for equality and social justice. Manushya means "Human Being" in Sanskrit; it was founded in 2017 to engage, mobilise and empower local communities across Asia to be at the center of decisions and policies that affect them.

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1. Introduction

- 1.1. In this submission, Mansuhya Foundation, the Patani Working Group for Monitoring on International Mechanisms, PerMAS and CAP, examine the compliance of the Thai Government with the recommendations received during the 2nd UPR cycle of Thailand, particularly in relation to the protection of the rights of Malayu Muslims in the Southern Border Provinces (SBPs). In this context, we analyse the efforts made by the Government to implement recommendations received related to compliance of domestic legislation with international human rights standards, the protection of physical integrity rights, prevention of discrimination and violence against children and women, and the rights of local communities in pursuing economic development. The authors then draw specific, measurable and result-oriented recommendations to ensure that the rights of the Malayu Muslims in the south of Thailand are respected and upheld.
- 1.2. During the 2nd UPR cycle, the Thai government received 2 recommendations directly addressing human rights violations in the SBPs, and 58 recommendations related to their rights. Of these, 52 were supported and 6 were noted. As the actions taken by the Government to implement the recommendations have been insufficient and ineffective, the Government has only fully implemented a single recommendation on withdrawing its interpretative declaration on Article 4 of the Convention on the Elimination of Racial Discrimination. It partially implemented 6, and did not implement 51 of them. Consequently, severe human rights violations persist in the SBPs.
- 1.3. We are deeply concerned with Thailand's treatment of Malayu Muslims, who are facing severe challenges in accessing their human rights. The Thai government has failed to ratify important international human rights instruments such as the Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT). The Muslim population in the South of the country confronts discrimination in their employment, violations of rights to privacy and limited access to effective remedy. Malayu women and children face additional barriers in accessing their rights due to their intersectional identities.
- 1.4. This submission indicates that the Malayu Muslims in the SBPs face severe challenges in accessing their human rights, in the following manner:
 - Section 2 discusses discrimination based on ethnicity and religion, including racial profiling.
 - Section 3 discusses violations of physical integrity rights such as torture, enforced disappearances and arbitrary detention.

- Section 4 discusses rights violations faced by Malayu women and children as a result of their intersecting identities.
- Section 5 discusses the Government's unsustainable economic growth putting profit over people.
- Section 6 discusses the Government's failure to engage local communities in peace talks.
- Section 7 discusses difficulties in accessing effective remedy.
- Section 8 includes recommendations to the Thai government, addressing the challenges and rights violations discussed in foregoing sections.

An annex of implementation of 2nd cycle UPR recommendations related to rights of Malayu Muslims in the SBPs and armed conflict therein can be found in Section 9.

2. Discrimination and racial profiling based on their ethnicity and religion

- 2.1. During the 2nd UPR cycle, the Thai government received 3 recommendations related to discrimination based on ethnicity. It accepted 2 recommendations and noted 1. However, so far, the Thai government has not provided sufficient human rights protection to its Muslim population. In the SBPs, Malayu Muslims are being stereotyped as 'suspected insurgents'. Consequently, they are under surveillance of the Government, which has put strict security measures in place that account to racial profiling and control of movement. For example, Malayu Muslims are randomly stopped by authorities to take pictures of their IDs and car plate numbers, CCTV and AI presence have increased in public spaces, and checkpoints where Malayu Muslims are disproportionately stopped and questioned are being set up.¹
- 2.2. The Emergency Decree on Public Administration in Emergency Situation, B.E. 2548 (2005)² allows warrantless detention for 30 days during which detainees are held at unofficial detention centers, lacking independent monitoring and facilitating torture and ill-treatment of detainees. The enforcement of this law has been repeatedly extended, i.e. in February,³ September⁴ and December⁵ in 2020.
- 2.3. Security officials also conduct random profiling through collecting DNA samples from Malayu Muslims, which will be added to a security database. The security forces claim that these samples are helpful to convict suspected insurgents. However, this practice amounts to racial profiling and the samples are used as a form of intimidation. As stipulated in Section 131 and 131/1 of the Criminal Procedure Code, a person may be subjected to DNA collection if they are suspected or convicted of a crime.⁶ Nevertheless, Malayu Muslims' DNA is being collected even without being suspect.
- 2.4. From January to September 2019, the Cross Cultural Foundation documented at least 139 cases of forced DNA collection.⁷ In February 2019, teachers from a school in Yala province rejected to provide their DNA samples, but the police insisted that they needed the samples and ordered the teachers to visit the police station to give their samples. In the same month, security officers searched the house of a villager and questioned her about the whereabouts of her sons.⁸ It was reported that in some cases,

people were asked to sign consent forms only after the DNA collection, in other cases, no consent was given at all.⁹ Further, 20,250 DNA samples were collected from conscripts in the army in April 2019 without informing them how the samples would be used, processed, which agencies would store them, and who would be able to access them. Conscripts were not aware that they were allowed to refuse and therefore signed consent forms.¹⁰

- 2.5. Starting in February 2018, the National Broadcasting and Telecommunications Office (NBTC) has ordered all mobile service providers to collect biometric data of SIM card registrants. In the restive South of Thailand, this policy is enforced more strictly. Introduced through announcements in the Royal Gazette on 9 April 2019 and 21 June 2019, new identification measures through facial scanning and biometrics came into force on 31 October 2019 in Thailand's Deep South.¹¹ Reportedly, Internal Security Operation Command's (ISOC) cut mobile network access in the Deep South for all SIMs that have not been registered with an app from the NBTC of Thailand, starting on 30 April 2020, amid the pandemic.¹²
- 2.6. Due to societal beliefs that Malayu Muslims are insurgents, employers are reluctant to hire Malayu Muslims, including students returning from stays in Malay or Arab speaking countries. Some employers specify that vacancies are only open to Buddhists, and in some work places Muslim women are not allowed to wear hijab, or are forced to wear uniforms with short sleeves and short skirts, forcing them to resign. Consequently, they are unable to find employment in their field of study, and end up as farmers or teachers in Islamic schools, or they decide to seek employment across the border in Malaysia.¹³

3. Physical Integrity Rights: Torture & Enforced Disappearance

- 3.1. During the 2nd UPR cycle, the Thai government received and accepted 31 recommendations related to physical integrity rights applicable to the situation in the SBPs. The Government was urged to ratify international instruments such as OP-CAT, ICPPED and integrate UNCAT into its national legislation. While the Thai government has not acceded to the OP-CAT and ICPPED, the Prevention and Suppression of Torture and Enforced Disappearances Bill pass approved by the Cabinet in June 2020¹⁴ is still waiting for approval by the Parliament and has been criticised for not conforming with Thailand's international obligations.¹⁵
- 3.2. Regarding other governmental efforts, the Prime Minister issued NCPO Order 131/2017 to establish the National Committee for Managing Cases Relating to Torture and Enforced Disappearance, in an attempt to address and prevent cases of torture. However, the Committee has been largely ineffective, and no significant progress has been made on the issue.¹⁶ Meanwhile, the torture, enforced disappearances and secret detention persist.
- 3.3. With an ongoing ethnic conflict and separatist movement in the SBPs since 2004, violence and fatalities are prevalent, and over 7,000 people have lost their lives.¹⁷ While the number of deaths and injuries has

been declining since 2014, fatal incidents have been a monthly reoccurrence. For example, 14 people have been killed and 21 injured in January 2021.¹⁸ Violence has also disproportionately affected the Muslim population. I.e. out of 116 killings documented by the Deep South Watch in 2020, 80% belonged to the Muslim community.¹⁹ In response to the spate of violent incidents, Thai authorities have increased counterinsurgency (COIN) activities, special security laws, and curfews which have resulted in increased state surveillance, arbitrary arrests, detention, torture, and extrajudicial killings.²⁰

3.4. Additionally, at the national level, laws addressing crimes such as torture and enforced disappearance are ineffective, and lead to continued impunity. In the SBPs, secret detention, torture and enforced disappearance of insurgency suspects, suspects of other crimes, members of the general public, and even human rights defenders (HRDs) continue to be damaging to them.²¹ The practice has increased in 2019 when the Duay Jai Group alone documented 168 cases of detention under Martial Law and Emergency Decree.²²

3.5. During the outbreak of Covid-19, the Government had not sufficiently increased medical equipment in the area, and did not address the health risk posed to those being detained in the overcrowded immigration detention centre located in Sadao district in Songkhla province. For example, on 25 April 2020, 42 detainees had tested positive for the virus (out of 53 new cases nationwide on that day).²³

3.6. The Muslim Attorney Center Foundation found that in the SBPs, between 2016 and 2018, in 133 cases victims and their relatives have been tortured by security officials in order to extract confessions.²⁴ The Duay Jai Group documented 137 torture allegations in Deep South between 2011 and 2019, and consistently documented new cases every year,²⁵ meaning that practice has not been eradicated since the last UPR cycle. In 2018, the Day Jai Group reported 20 cases of alleged torture and cruel, inhumane treatment under special enforcement laws. Examples of such treatments include being forced to stand in a fixed position for three days and two nights in a row, sleep deprivation, staying naked, being soaked in dirty water, and being subjected to waterboarding.²⁶

4. Malayu Muslim women and children

4.1. During the 2nd UPR cycle, the Thai government received and accepted 11 recommendations related to the rights of women and children. The Government was, inter alia, prompted to ensure protection against violence against women “regardless of its religion, race, sexual identity or social condition”, participation of children in armed forces and non-state armed groups, and guarantee equal access to healthcare to women and children. However, Malayu women and children still struggle in accessing their rights. Children also suffer from long-term mental health problems as a result of the conflict²⁷ and still become victims of violent incidents.²⁸

4.2. Children have been caught in the conflict, and have even lost their lives. Deep South Watch found that by the end of 2014, 86 children had lost their lives and 431 were injured.²⁹ Particularly children of

insurgents are being stigmatised at school. Sometimes older children drop out completely to help financially support their families, especially in cases when the breadwinner of the family is detained.³⁰ Also, as highlighted by The Association for Children and Youth for Peace in the Deep South, orphaned children are more easily persuaded to join conflict and seek revenge.³¹

- 4.3. Historically, textbooks and curriculums used in public schools do not refer to Malayu history and culture. At times, when Malayu language is taught at all, children have to use Thai alphabet rather than their own Jawi script.³² Consequently, CSOs in the area run private schools which provide education in Malay language and include teachings about Malayu history and culture. In 2019, one such school was visited by ISOC, which forced the school to close down because they suspected the school to have supported a group the government identifies as separatist group. This action of ISOC created fear amongst teachers, students, and parents, and it discredited similar schools in the area.³³
- 4.4. Most Malayu women lack knowledge of sex education and reproductive health, and unwanted pregnancy and teenage pregnancy are prevalent issues in the SBPs. However, due to the religious code and lack of counselling about maternity, health problems, and reproductive health, girls face serious barriers in accessing appropriate healthcare.³⁴ Additionally, girls' right to health is violated as genital circumcision is still practiced. Most Malayu Muslim girls are circumcised at birth by local midwives or gynaecologists at state hospitals, while some girls are circumcised at the age of two or three. Many experience infections afterwards, posing a risk to their health.³⁵
- 4.5. In instances, Malayu women are sexually harassed and raped by soldiers. If women file a complaint about this, they can sue the soldier who harassed or raped them. However, many girls and women refrain from filing a complaint due to reputational harm that may be done to the family, and because punishments of perpetrators are weak: if found guilty the punishment includes relocation or job termination. In other cases, the offenders claimed that mutual consent was involved and the perpetrator was not found guilty.³⁶

5. The Government's unsustainable economic growth puts profits over people

- 5.1. During the 2nd UPR cycle, the Thai government received and accepted two recommendations that demand the government address the issue of human rights in the pursuit of economic growth, which it failed to implement. However, despite the elaboration of the National Action Plan on Business and Human Rights, the violations of human rights related to economic development persist. In the SBPs, the Government claims that one of the reasons for the continuance of the armed conflict is the underdevelopment of the area. Therefore, it aims to resolve the conflict through pursuing economic development. However, communities believe that the development projects will create more tensions because of competition among communities for scarce natural resources, on which they depend for their livelihoods.

- 5.2. In January 2020 the government approved the 18.7-billion THB construction of a special economic zone in Chana district, located in Songkhla province.³⁷ While the government claimed that through the project and the economic development that it will bring, tensions in the area will reduce, local communities are concerned about the project, fearing that degradation of natural resources brought about by industrialisation could jeopardise their traditional lifestyles and health, and that the economic benefits may not trickle down to the local level.³⁸
- 5.3. Problematically, communities were not involved in decision-making processes regarding the special economic zone in Chana district: there was a lack of public participation, and public hearings were not conducted fairly. For example, in Chana district in Songkhla province, local communities noted that one of the public hearings was originally scheduled for May 2020, while Thailand was under Emergency Decree due to COVID-19.³⁹ Under the Decree, freedom of movement and public gatherings were restricted.
- 5.4. Also, the hearing was only announced at the headquarter of the provincial administration centre, which local people do not usually visit. On the website of the centre, information was only provided in the form of a 113-page document, inconvenient for people to access and read. Information provided did not include project details regarding the impacts, and prevention and mitigation plans. Further, authorities also specified that only residents of the area could participate, while other affected communities were not allowed in.⁴⁰

6. Participation in Peace Talks

- 6.1. During the 2nd UPR cycle, the Thai government did not receive any recommendations directly addressing the armed conflict in the Deep South, even though the conflict is far from resolved and local communities still face its negative impacts. With peace talks ongoing between 2015 and 2019 between the Thai government and the BRN, in 2018, an agreement was close to being concluded on a safety-zone where a ceasefire would be implemented. Ultimately, the negotiations failed as the Thai authorities refused to make any concession and sign what was agreed upon.⁴¹
- 6.2. In a major achievement for the peace process, a dialogue between representatives from the Thai government, the BRN, and other actors part of the conflict were supposed to be initiated in March 2020, with mediation by Malaysia. However, it was put on hold indefinitely as a result of the Covid-19 pandemic. On 3 April 2020, BRN announced a temporary ceasefire to facilitate control of Covid-19 pandemic.⁴² Nevertheless, house raids and DNA taking continued, and 3 members of BRN armed forces were extra-judicially killed on 30 April.⁴³ In May 2020, Thai security forces conducted a raid of a suspected insurgent hideout resulting in the death of two civilians. Whether this will have a lasting impact on the peace talks and the progress made in the region, remains to be seen.⁴⁴

- 6.3. Peace dialogues have been held between Thai government representatives and the MARA Patani, an umbrella organisation comprising of six political liberation groups fighting for self-determination in Thailand's SBPs, since 2015, but no tangible progress has been made.⁴⁵ During the latest peace talks round which started at the beginning of 2020, the Thai government negotiated with representatives of the BRN, with a presence of Malaysia as a facilitator and several international observers. However, the talks have been hindered by the Covid-19 pandemic, and violence continued even during the negotiations. The most serious incident occurred on 17 March 2020 when a car bomb injuring 26 people was detonated as a retaliation to governmental actions of arbitrarily detaining and extra-judicial killings of BRN members.⁴⁶
- 6.4. Local communities and civil society actors are not effectively engaged in peace dialogues relating to the conflict in Thailand's SBPs, largely because their views differ from the state's and are therefore blocked and disregarded. Despite recent conditions by the BRN for the participation of the international community, it has been absent from the conversation until now and therefore unable to monitor the process and progress.⁴⁷ Furthermore, the Government restrains activities of civil society organisations which seem to represent the Malayu Muslim population.⁴⁸
- 6.5. While women actively participate in peace-making efforts on the ground, their participation in formal peace process is limited, even though they are significantly affected, directly and indirectly, by the conflict.⁴⁹ Women community members lack access to information on the developments of the peace process allowing them to establish their own strategies and priorities, as well as public space where they could openly discuss issues that concern them.⁵⁰ Reconciling among communities in the SBPs is very important, as there has been much misunderstanding between the Buddhists and Malayu Muslims. The general climate of impunity stemming from cases of torture, arbitrary detention and violent attacks have made the situation on the ground hard to reconcile.⁵¹

7. Access to effective remedy

- 7.1. During the 2nd UPR cycle, the Thai government received and accepted 9 recommendations related to access to effective remedy, out of which 8 were accepted and 1 noted. 2 recommendations specifically prompted the Thai government to investigate human rights violations, including torture allegations, in the South of the country. Especially in cases of alleged torture and ill-treatment, officials fail to investigate allegations, and victims and lawyers face difficulties gathering evidence, including accessing independent medical examinations to document the victims' injuries.
- 7.2. Up to date, the Government has failed to provide justice to victims of human rights violations in the SBPs and hold the responsible security forces officials accountable. Section 17 of the Emergency Decree on Public Administration⁵² provides amnesty to officials violating human rights, stating that the violations are necessary to fulfil their duties.

- 7.3. Filing of complaints and lawsuits has led to a restriction on affected individuals, journalists and HRDs to hold Thai authorities accountable for their actions amounting to torture, cruel, inhuman or degrading treatment. With little to no effort made to avoid such weaponisation of the law and the power granted under them, authorities continue their attempts online and offline to hide their wrongdoings and human rights abuses by restricting access to information. Besides that, the Government also harasses and defames government critics, human rights defenders, and activists, including those involved in the peace process in the SBPs. Furthermore, the practice of “attitude adjustment” has been prevalent after the 2014 coup.⁵³
- 7.4. Ismaael Teh, President of the Pattani Human Rights Organization Network (HAP) revealed in a 2018 TV interview that he had been beaten, electrocuted, and forced to confess at gunpoint by security forces during his 9-day detention at Ingkayutthaboriharn military camp in 2008. Not even two weeks later, the Internal Security Operation Command filed civil and criminal charges against him for defamation.⁵⁴ Prior to this, in October 2016, in a case filed by Ismaael before the Supreme Administrative Court, the Court concluded that he was a victim of torture and ordered the army to pay him a compensation of 305,000 THB for physical harm and emotional distress.⁵⁵ However, no military personnel were prosecuted for this crime. On 9 February 2018, another civil defamation suit for 10 million THB was filed by ISOC Region 4 against editors of the news website ‘Manager online’ for their reports on torture in the SBPs and Ismaael’s case.⁵⁶
- 7.5. On 24 October 2017, the Pattani Provincial Prosecutor decided to end the prosecution of Pornpen Khongkachonkiet, Somchai Homlaor, and Anchana Heemina for publishing a report where they documented 54 instances of torture and ill-treatment by security officers in Thailand’s Deep South. In this case, ISOC Region 4 had filed a complaint against them on 26 July 2016 for criminal defamation and violation of the Computer Crime Act 2007.
- 7.6. Khanakorn Pianchana, a senior judge in the Yala provincial court of Southern Thailand attempted to commit suicide in October 2019 with a second attempt in March 2020 being successful. His actions were in protest of interference in the justice system, after a senior judge forced him to rewrite a judgment in which he exonerated five Muslim suspects for lack of evidence. Instead of receiving support, after his first suicide attempt, disciplinary proceedings and criminal charges were initiated against the judge.⁵⁷
- 7.7. Malayu women face additional issues when they seek remedy and report cases related to family matters, as these issues are governed by the Islamic Family and Inheritance Law, and women should file their complaint at the Islamic Provincial Council instead of with the formal justice system. However, women are reluctant to do so as there is a lack of safe space for women to share their stories, all council members are men, women are shy to tell them about problems they face, such as domestic violence.⁵⁸ Additionally, women are not able to access justice through the Islamic Family and Inheritance Law because there is a lack of enforcement of this law when it comes to providing rights that are entitled to women.⁵⁹

8. Recommendations

8.1. Regarding discrimination and racial profiling of Malayu Muslims based on their ethnicity and religion

- In line with Article 9 of the International Covenant on Civil and Political Rights (ICCPR),⁶⁰ Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD),⁶¹ and in accordance with 2012 Observations on Elimination of Racial Discrimination in Thailand,⁶² the Thai government must terminate the practice of search and arrest based on ethnicity and racial profiling.
- The Government must adopt a human rights-based approach to its use of biometric technology that incorporates procedural safeguards and watchdog mechanisms ensuring that privacy legislation regarding the protection of personal data in line with international standards is enforced.
- The Government should withdraw its reservation on Article 22 of the Convention on the Elimination of Discriminations in All Forms of Racial Discrimination.
- In line with Article 2 of the Discrimination (Employment and Occupation) Convention, 1958,⁶³ Thailand should declare and pursue a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.

8.2. Regarding physical integrity rights

- In line with Article 9 and 10 of the Universal Declaration of Human Rights,⁶⁴ Thailand must investigate cases of deprivation of liberty imposed arbitrarily or otherwise inconsistently with the relevant international standards set forth in the Universal Declaration of Human Rights regarding special security laws in the country's Deep South.
- In line with Article 9 of the Universal Declaration of Human Rights (UDHR) as well as Article 9 (1) and (2) of the International Covenant on Civil and Political Rights (ICCPR), ensure that no one shall be subject to arbitrary arrest or detention and liberty shall only be deprived on grounds that are in accordance with procedures established by law. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for their arrest and shall be promptly informed of any charges against them.

- Enact the Prevention and Suppression of Torture and Enforced Disappearance Act in full compliance with the UNCAT, including a definition of the crime of torture; the provision of non-refoulement; universal jurisdiction; independent investigations; no admissibility of statements obtained by torture; and prevention of cruel, inhuman or degrading treatment or punishment.
- In line with the Concluding observations on the second periodic report of Thailand by the Human Rights Committee (2017), ensure that cases of torture are reported and that prompt, impartial and thorough investigations are carried out into all allegations and complaints concerning the unlawful and excessive use of force by law enforcement officials and the military. Ensure that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions.

8.3. Regarding discrimination Malayu Muslim women and children face accessing their rights

- In line with Article 28 of the Convention on the Rights of the Child, with Article 14 of the United Nations Declaration on the Rights of Indigenous Peoples, with the 1999 Education for All Policy and its 2002 amendment, with the 2005 Cabinet Resolution on Education for Unregistered Persons, with Section 10 of the Second National Education Act, and Section 54 of the Constitution, the Thai cabinet must continue to cooperate with, provide funding to and support the activities of the Equitable Education Fund (EEF) in order to improve the equal rates of gender representation in schools and prevent early drop out. This includes the needs to expand its activities to SBPs and increase the number of scholarships provided to students from low-income families. The government should also promote career advice and the teaching of transferrable skills commonly sought after by employers both in rural and urban locations.
- In collaboration with civil society, organise raising awareness campaigns regarding the importance of education for all children and especially girls, as well as children deemed vulnerable, such as stateless, indigenous, migrant or ethnic minority children, in order to help reduce gender discrimination and disparities in education.
- In line with the 2017 Concluding Observations of the Committee on the Elimination of Discrimination against Women (CEDAW Committee) to Thailand, adopt temporary special measures targeting Muslim women in the southern border provinces so as to ensure their substantive equality with men in all areas.

8.4. Regarding the Government failing to ensure sustainable development

- In line with 2015 Concluding Observations of the Committee on Economic, Social and Cultural Rights Concluding Observation 10 (c) (2015) to Thailand, adopt a human rights-based approach in its development projects, as well as establish participatory mechanisms in order to ensure that no

decision is made that may affect access to resources without consulting the individuals and communities concerned, with a view to seeking their free, prior and informed consent.

8.5. Regarding local communities' participation in peace talks

- In line with Article 1 and 2 of the OHCHR ICCPR ratified by Thailand in 1996, as well as the ICESCR, the Government should allow civil society and the international community to participate in the process of peace talks and facilitate a suitable environment for civilians to express their diverse political viewpoints, meeting international standards.
- In line with paragraph 22c of the 2017 Concluding Observations to Thailand, the Government should consider gender-sensitive security measures and peace-building initiatives that include women.

8.6. Regarding access to effective remedy

- In line with the OHCHR's Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression submitted in accordance with Commission resolution 1999/36, 18th January 2000, emphasis must be placed on rigorous, scientific judicial investigation so that justice is not employed as a weapon by the prosecution or police. The state must therefore also establish an independent commission to investigate complaints filed against law enforcement officials and ensure that police, lawyers and judges do not undergo political pressure or interference.
- According to Article 11 of the Universal Declaration of Human Rights (UDHR) and Article 14 (2) of the International Covenant on Civil and Political Rights (ICCPR), protect the right of everyone charged with a penal offence to be presumed innocent until proved guilty.
- Provide full redress to victims of torture in compliance with General Comment 3 of the Committee Against Torture.
- In line with the 2014 Concluding Observations of the Committee against Torture (CAT Committee) to Thailand, take all necessary measures to immediately halt harassment and attacks against human rights defenders, journalists, and community leaders; systematically investigate all instances of intimidation, harassment and attacks with a view to prosecute and punish perpetrators; and guarantee effective remedies to victims and their families.

Endnotes

- ¹ Nithin Coca, *Surveillance of minority Muslims in southern Thailand is powered by Chinese-style tech*, 30 June 2020, <https://www.codastory.com/authoritarian-tech/surveillance-muslims-thailand/>; Darika Bamrungchok, *A glimpse at Thailand's digital ID through the biometric profiling of Malay Muslims*, 18 May 2020, available at: <https://globalvoices.org/2020/05/18/a-glimpse-at-thailands-digital-id-through-the-biometric-profiling-of-malay-muslims/>
- ² Emergency Decree on Public Administration in Emergency Situation, B.E. 2548 (2005), Section 12, available at: <https://www.refworld.org/pdfid/482b005f2.pdf>
- ³ Bangkok Post, *Emergency decree for deep South extended*, 18 February 2020, available at: <https://reliefweb.int/report/thailand/emergency-decree-deep-south-extended>
- ⁴ Nation Thailand, *State of emergency in deep South to be extended for 3 months*, 16 September 2020, available at: <https://www.nationthailand.com/news/30394610>
- ⁵ Bangkok Post, *State of emergency to continue*, 15 December 2020, available at: <https://www.bangkokpost.com/thailand/general/2035263/state-of-emergency-to-continue>
- ⁶ Criminal Procedure Code, Section 131 and 131(1), 20 November 1996, available at: <https://www.ici.org/wp-content/uploads/2012/12/Thailand-Criminal-Procedure-Code-1934-2008-eng.pdf>
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