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HUMAN RIGHTS COMMITTEE

Eighty-fourth session

SUMMARY RECORD OF THE 2294th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 19 July 2005, at 3 p.m.

Chairperson: Ms. CHANET

later: Mr. SOLARI YRIGOYEN
(Vice-Chairperson)

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

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT AND OF COUNTRY SITUATIONS (agenda item 6)
(continued)

Initial report of Thailand (continued) (CCPR/C/THA/2004/1; CCPR/C/84/L/THA;
HRI/CORE/1/Add.78)

1. At the invitation of the Chairperson, the members of the delegation of Thailand resumed their places at the Committee table.
2. Ms. WEDGWOOD asked what progress had been made on the bill to revise the Criminal Procedure Code, thus providing for independent autopsies in the event of extrajudicial killings by military personnel or police officers. She wished to know whether the Government planned to introduce measures to establish an independent process for the internal investigation of police misconduct. It would be useful to learn what progress had been made by the fact-finding mission set up to investigate the Tak Bai incident.
3. Reports on prison conditions had alleged that pre-trial detainees were held together with convicted criminals; juveniles, men and women were often not separated in prison, health provision was minimal; and shackling was commonplace. The reporting State should indicate what measures it would take to improve those conditions.
4. She wished to know whether the coverage of HIV/AIDS medicines under the 30 baht national health insurance system extended to pregnant women who were HIV-positive. Given that medicines such as AZT and Nevirapine were cheap and effective in preventing mother-to-child transmission, it would be interesting to know whether they were routinely offered to pregnant women who were HIV-positive.
5. Mr. BHAGWATI asked how many terrorist suspects were currently in prison, and how long they had to wait before being tried.
6. Additional information on the appointment of judges should be provided, particularly who appointed them and what procedure was used in that process. The delegation should indicate whether judges had a fixed term of office, how they could be removed, by whom and in what circumstances. It would be interesting to learn how judges were promoted, who was in charge of the promotion process, and whether judges remained in their initial postings until they were promoted or they retired. Was there any authority that monitored the work of judges?
7. Ms. POWPATTANA AMORNSAK (Thailand) said that in interpreting the provisions of domestic legislation, Thai courts took into account the intent and purport of the relevant articles of the Covenant.
8. Young offenders who were convicted of a crime that carried the death penalty or a sentence of life imprisonment automatically had their sentences commuted to 50 years' imprisonment. Since those sentences could be further reduced at the courts' discretion, in

practice the average sentence imposed on young offenders who committed those crimes was between 12 and 17 years' imprisonment. In the case of all young offenders, domestic legislation gave the courts the right to replace imprisonment with a period of detention and training in one of the country's "observation and protection centres", until the offender reached the age of 24.

9. The police had the right to arrest and hold people for questioning for a maximum of 48 hours. If further questioning was needed, the police had to apply to the courts for a detention order. If such an order was issued, the detainee was thereafter held in court detention as opposed to police detention. Under section 87 of the Criminal Procedure Code, when deciding whether to issue a detention order courts were obliged to ask detainees whether they had any objection to the detention order, and to hear the testimony of the questioning officer and any other relevant witnesses or evidence.

10. Mr. CHAIYANUKIJ (Thailand) said that the Office of the Ombudsman and the National Human Rights Commission were both independent bodies. There was no duplication of mandate, since the Office of the Ombudsman examined the performance of government officials only.

11. Mr. KASEMSUVAN (Thailand) thanked Mr. Lallah for his advice regarding the appropriate action to take in informing other States parties about Thailand's state of emergency, in accordance with article 4 of the Covenant. His Government would act on that advice, and would study the Committee's general comment No. 29 on the question of derogations during a state of emergency.

12. Mr. CHUTIWONGSE (Thailand) said that persons arrested on suspicion of taking part in terrorist activity received the same treatment as all other detainees. Persons accused of committing terrorist offences abroad could be extradited to a requesting State under the relevant provisions of Thai law. In that case, the public prosecutor filed an extradition request with the courts, and extradition orders were granted at the courts' discretion.

13. Mr. KITTICHAISAREE (Thailand) said that only one terrorism case had come before Thai courts, involving five persons accused of terrorist offences. The accused had been acquitted by the court of first instance on the grounds of lack of evidence. There were no plans to appeal that decision. Those who had been accused had the right to apply for compensation.

14. Mr. CHAIYANUKIJ (Thailand) said his Government regretted that the five-year national action plan had not yet been implemented. The plan was currently under review, and would be updated to take into consideration changes in the government structure.

15. Mr. CHANDRANSU (Thailand) said that the death penalty was imposed for drug trafficking offences involving the import, export or production of 300 milligrams, or equivalent, of LSD or 1.5 grams or equivalent of amphetamines. At the courts' discretion, the death penalty could be commuted to life imprisonment or a shorter prison sentence if the accused confessed to the crime or otherwise cooperated in the proceedings.

16. His delegation did not have any statistics on the number of cases in which death penalties had been commuted to life imprisonment or shorter prison sentences. Efforts would be made to collect such data in future.

17. The committee established to investigate complaints against police officers and other law enforcement officials was composed of five members: the Director-General of the Office of the Narcotics Control Board acting as Chairman, the Deputy Attorney-General, the former Deputy Prime Minister, the Director-General of the Rights and Liberties Protection Department acting as assistant to the Secretary and he himself acting as Secretary. To date the committee had dealt with 752 complaints. In addition, in the context of administrative reforms undertaken nearly three years earlier, a Department for Special Investigations had been established within the Ministry of Justice to deal with what could be considered economic or white-collar crimes. The department could however be asked, in complicated cases, to take over investigations from the police. Every effort was being made to work with foreign partners in order to provide training for personnel in the department; for example, representatives of the department had recently visited Interpol headquarters in France and Scotland Yard in the United Kingdom.

18. Turning to the issue of the average time inmates spent waiting on death row, he said that generally speaking two to five years elapsed between sentencing and execution or commutation of the sentence. He felt that most inmates viewed the possibility of commutation favourably, even if it involved a long wait. The average time necessary for appeals following pronouncement of a death sentence by the court of first instance was approximately two years per level of court. After the Supreme Court, there was also the possibility of an appeal to the King for commutation of the sentence. He assured Committee members that he was eager to hear their suggestions with regard to the shackling of death row prisoners and would transmit any recommendations to the competent Minister.

19. Mr. CHAIYANUKIJ (Thailand) stressed that his Government deplored tragic events such as the Krue Se mosque incident and the Tak Bai incident, which could be attributed to failures in leadership on the part of local officials. His Government was committed to not allowing the authorities to act with impunity and had established independent fact-finding commissions to investigate both incidents; family and friends of the victims had the right to legal counsel and to testify in court.

20. The Krue Se investigation was currently at the autopsy stage and criminal charges would be brought against those responsible if sufficient grounds were found. With regard to the Tak Bai incident involving the transportation of suspects, he said his Government had recognized that an error had been made; the officer-in-charge had already been disciplined and the soldiers directly involved would face criminal charges if warranted. Financial compensation was available to the victims of abuses by the authorities and their families: the equivalent of US\$ 2,500 in case of death, US\$ 2,000 in case of permanent disability, US\$ 1,250 in case of serious injury and US\$ 250 in case of minor injury.

21. Mr. KASEMSUVAN (Thailand) pointed out that although those sums might seem relatively small, they were fairly significant in relation to the cost of living in Thailand, where, for example, a newly recruited civil servant might have an annual salary of only approximately US\$ 150.

22. Mr. BAVORNATANARAKS (Thailand) said incidents such as the Tak Bai tragedy had been a real learning experience for the military. As a result of that incident, government policy was that the police should henceforth be used in situations of civil disturbance and the

military, who were trained for combat, should be called in only as a last resort. The military had recognized the need for clear guidelines for military personnel involved in operations involving civil disturbance, including the need to protect human rights. Rules of engagement had recently been distributed to military units and training would be provided to non-commissioned officers on the need to comply with national and international legal instruments.

23. Specific rules of engagement for riot situations would likewise be developed and submitted to Cabinet. They would include protecting human rights and avoiding injury or loss of life. While recognizing the need for troops to act in self-defence, they would stress the need to ensure that the military's response was proportionate to the threat and would reflect the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Officers would be reminded of their duty to maintain control of their troops and the obligation to provide medical care to the injured and to ensure their security during detention or transport.

24. Mr. KASEMSUVAN (Thailand) stressed that the deplorable events during the Tak Bai incident were deeply regretted by his Government. No one could have imagined that the situation could degenerate as it had or that the army was not properly prepared for such situations. Unfortunately, the situation had been deemed urgent and the army had been called in. Since those events, the Government had committed itself to developing clear rules of engagement for the military if called upon to deal with riots or demonstrations; however, the military would be called in only as a last resort. The preferred response would be from the police; special units would be brought in to deal with civil disturbances, likewise following strict rules of engagement.

25. Mr. TUCHINDA (Thailand) stressed that police officers who were guilty of abusing persons in their custody would be punished; in the previous year there had been approximately 20 cases where torture had been confirmed. In the case of Somchai Neelapaijit, he said that the officer accused had been temporarily removed from his post pending the outcome of court proceedings. With regard to the four individuals who had filed complaints of ill-treatment against police officers, including the local head of investigations, in November 2004, he said that an investigation had immediately been undertaken. The four individuals had been examined by a doctor but no physical injury had been found. One of the individuals claimed to have been beaten in March 2004, but the police officer accused had only begun work in that police station in June 2004, and therefore his claim had been dismissed. Investigation of the other three claims was continuing. He observed that any case of misconduct on the part of a government official in the performance of his duties was considered a serious crime to be investigated by the National Counter Corruption Commission.

26. Mr. CHANDRANSU (Thailand) said that there had been 11 executions in 2001 and 2002, 4 in 2003, and none in 2004 and 2005. He pointed out that it was customary for the King to commute death sentences on special occasions such as royal anniversaries; there had been no such occasions in 2001-2003 and there had therefore been no commutations, which could explain the number of executions actually carried out in those years.

27. Mr. KASEMSUVAN (Thailand) said that rumours about televising of executions were completely unfounded. They had resulted from an offhand remark by a high ranking officer during an interview which had then been exaggerated by the press. It had never been the policy of his Government to televise executions.

28. Mr. CHAIYANUKIJ (Thailand) said that the case of the five police officers mentioned included charges of robbery and coercion through threats of death or bodily harm; substantial evidence of coercion through kidnapping could not be found. The court had scheduled 52 sessions to question 42 plaintiff witnesses, 15 co-plaintiff witnesses, and 63 witnesses for the 5 accused. Those sessions had begun in March 2005 and would continue until the end of 2005. The former chief of police had been taken off the case, since he was not considered to be impartial.

29. Mr. KASEMSUVAN (Thailand) said that the Government deeply regretted the disappearance of Mr. Somchai Neelapaijit, and was doing everything in its power to solve the case and ensure that the perpetrators of the crime were brought to justice.

30. Mr. KOWSURAT (Thailand) welcomed Ms. Wedgwood's comments on the importance of specific pre-trial detention facilities. His Government would endeavour to give priority to funding for the construction of such facilities, particularly for young offenders, in order that persons in pre-trial detention could be separated from convicted criminals.

The meeting was suspended at 4.30 p.m. and resumed at 4.50 p.m.

31. Mr. CHANDRANSU (Thailand) said that the Government acknowledged the lack of health services in Thai prisons, and confirmed that the medical staff numbers mentioned by Ms. Wedgwood were correct. Efforts were being made to tackle that problem by employing part-time health-care staff while further recruitment was carried out, and through cooperation programmes with the Ministry of Health. In serious cases, prisoners were transferred to public hospitals for treatment.

32. Lack of facilities had led to pre-trial detainees being held in the same detention institutions as convicted prisoners. Although all prisoners ate and exercised together, efforts were made to provide them with separate dormitories. Renovations were being carried out on 31 prisons. They would be completed in 2008, and would ensure separate facilities for pre-trial and convicted detainees.

33. Turning to the issue of police custody, he said that men and women were held separately in police custody. Inspections had led to the conclusion that priority should be given to ensuring the provision of separate facilities for young offenders, and funding would be allocated for that purpose in the forthcoming budget.

34. Mr. KASEMSUVAN (Thailand) said that written information on medication for people living with HIV/AIDS in Thailand would be provided in due course.

35. Ms. POWPATTANA AMORNSAK (Thailand) said that the criteria for the appointment and removal of judges were laid down in the Constitution. Candidates for posts as judges, and requests for the removal of judges from office must be approved by the Judicial Service

Commission of the courts of justice, before being tendered to the King. The Judicial Service Commission appointed sub-committees for each level of court, which prepared an opinion on the appointment and dismissal of judges. Judges served from the day of their appointment until retirement at the age of 65, but must stand down from office if they were found to be in serious breach of disciplinary regulations.

36. Mr. BHAGWATI asked about the membership of the Judicial Service Commission, who appointed its members, and what qualifications candidates for membership must have. Although the rehabilitation centre for convicted drug addicts could accommodate 80 people, only 40 places had been filled, while many drug addicts continued to languish in prisons. He asked why the centre's full capacity was not being used.

37. The Committee had been informed that an act containing emergency provisions had recently been passed in Thailand, and provided for seven days' emergency detention with a possible extension of one month before an individual was brought before a court. He asked if such an act had indeed been passed; if so, further information on those provisions would be welcome. General concern had been expressed that the writ of habeas corpus was soon to be suspended. He wished to know whether that was indeed the case.

38. Sir Nigel RODLEY said that the delegation had not provided any information on deaths allegedly caused by law enforcement officials during the fight against drugs in 2003. A response to question 11 of the list of issues would be appreciated. The delegation had stated that an average figure of 20 police officers were punished every year. He asked what that punishment consisted of, and requested examples of sentences imposed on law enforcement officials found guilty of acts of torture. He also asked how many police officers had been tried, convicted and punished, and for which offences. He wished to know what was the longest period that a person could be held in police custody before being brought before a court, including in exceptional circumstances. What was the maximum length of time a person could be held in pre-trial detention without being able to communicate with anyone outside the detention facility? The delegation had informed the Committee that when pre-trial detention was extended, it became court detention rather than police detention. He wished to know whether, in those circumstances detainees were moved to different facilities.

39. Mr. CHANDRANSU (Thailand) said that his Government did not intend to suspend habeas corpus procedures. All drug addicts convicted before the opening of the rehabilitation centre in 2003 were treated as criminals. Those who had been convicted since the opening of the centre, and had been found to be in possession of less than five amphetamine tablets, had been sentenced to rehabilitation treatment rather than imprisonment. Addicts who had been convicted prior to the opening had been placed on rehabilitation programmes run by the Ministry of Health and the Ministry of Defence.

40. In accordance with the Constitution and the Criminal Procedure Code, any person taken into custody by the police had the right to contact their next of kin. A police officer who made an arrest was under an obligation to take the arrested person directly to a police station; failure to do so would result in disciplinary action. All persons under arrest had the right of access to a lawyer during questioning. The Ministry of Justice worked in close cooperation with lawyers' associations to ensure that a lawyer was present at the police station in question within two hours

of a request for counsel being made. Persons under arrest could spend no longer than 48 hours in police custody. In the event that the police wished to continue questioning beyond that period, the arrested person would be taken to court and a decision would be made as to whether he or she should be held in detention by the court authorities. The decision on the continuation of detention would be reviewed every seven days.

41. Mr. KASEMSUVAN (Thailand), referring to the issue of states of emergency, said that Thailand fully intended to comply with article 4 of the Covenant concerning information on any derogation from basic Covenant rights.

42. Mr. CHANDRANSU (Thailand) said that, thus far, 750 arrests had been made in connection with the 2,600 extrajudicial killings that had occurred in the context of the so-called “war on drugs”. Another 117 suspects had been identified, but their whereabouts were unknown. For the remaining cases, the identity of the perpetrators was unknown and investigations were continuing. The media and the population were exerting considerable pressure on the Government to clarify those incidents and the Ministry of Justice would do its utmost to achieve that aim.

43. Mr. na RANONG (Thailand) said that his country currently hosted over 120,000 refugees from Myanmar, who were housed in temporary shelters along the border. His Government had been working closely with UNHCR and other humanitarian organizations to find lasting solutions for those persons. The protracted presence of Myanmar refugees and the mass influx of illegal migrant workers from neighbouring countries had caused social tension and security concerns among the local Thai population, who often lived in poorer conditions than the refugees. The Government thus fully supported the activities of international organizations within Myanmar aimed at creating an environment conducive to the voluntary repatriation of refugees. There was growing concern that certain groups of refugees might abuse Thailand’s hospitality and disobey the law. The Thai authorities cooperated closely with UNHCR in formulating measures to safeguard the protection and security needs of “persons of concern” and asylum-seekers. To that end, a large number of Myanmar persons of concern had been transferred to temporary shelter areas in the past two years. Since 2004, his Government had approved the resettlement of some 2,500 Myanmar persons of concern, most of whom had taken up residence in the United States.

44. In order to address the problem of the approximately 2 million migrant workers from Myanmar who had entered Thailand illegally, some 643,000 work permits for Myanmar nationals had been issued in 2004 alone. The Government had also entered into agreements with neighbouring countries to promote legal channels for labour migration. Economic cooperation strategies implemented in the border areas aimed at enhancing the capacity of neighbouring countries with a view to reducing the development gap and, consequently, alleviating migration pressure.

45. Thailand had successfully reduced mother-to-child transmission of HIV from 21 to 7 per cent. Hospital birth was the norm and, consequently, HIV-positive pregnant women had access to antiretroviral vaccines. Patients with opportunist infections were also given free treatment.

46. Mr. Solari Yrigoyen (Vice-Chairperson) took the Chair.
47. Mr. CHANDRANSU (Thailand) said that the freedoms of opinion and expression were guaranteed in the 1997 Constitution. No other legal provisions could be invoked to curtail those freedoms, and government interference in the activities of the media and censorship were prohibited by law. Individuals did have the possibility, however, to file a civil or criminal libel suit against the media. Media employees had recourse to the courts in cases of unfair dismissal and relevant case law testified to the enforceability of those provisions.
48. The libel suit against Ms. Supinya Klangnarong and the Thai Post filed by Shin Corporation was entirely unrelated to the Prime Minister's former involvement in the company. On taking office, the Prime Minister had been obliged to relinquish his shares. The fact that he had founded the company should not deprive Shin Corporation of its right to sue anyone who had defamed its reputation. The hearing was scheduled for 19 July 2005.
49. Mr. THANGHONG (Thailand) said his Government promoted the freedom of association through legal instruments and public policies. Current labour legislation was not fully in conformity with the provisions of the Covenant and ILO Conventions No. 87 concerning Freedom of Association and Protection of the Right to Organize and No. 98 concerning the Right to Organize and Collective Bargaining. However, in order to further promote the freedom of association, the Government was currently revising the 1975 Labour Relations Act and the 2000 State Enterprise Labour Relations Act in consultation with all parties concerned. It had also commissioned a research project to examine the possible ratification of the aforementioned ILO Conventions and was reviewing existing labour regulations, principles and guidelines to prepare for future bilateral and multilateral free trade agreement negotiations, and to ensure compliance with international labour instruments.
50. Mr. CHAIYANUKIJ (Thailand), replying to question 22 of the list of issues, said that the report of the National Human Rights Commission was still under consideration; thus far, none of its findings had been dismissed.
51. Mr. KOWSURAT (Thailand) said that forced child labour constituted a violation of labour regulations and child protection legislation, and in many cases involved trafficking in persons, thus violating immigration legislation. Child trafficking also violated certain legal provisions governing money-laundering. Legal recourse against child labour and trafficking was available under all those provisions.
52. Child victims of trafficking were placed in refuges managed by the Ministry of Social Development and Human Security. The children were provided with health care, counselling, language assistance and education. Social workers cooperated with the Ministry of the Interior in identifying their parents or relatives. In cases involving non-Thai nationals, social workers cooperated with the respective embassies to ensure the safe repatriation of those children.
53. Victims of forced labour were not liable to punishment for having violated immigration legislation. New legislation provided for civil compensation claims to be filed automatically at the time the criminal case was submitted to the court so as to ensure fast-track compensation.

Although it was difficult to distinguish between illegal migrants and victims of trafficking, all children under 18 were considered victims. With the assistance of the United Nations Interregional Crime and Justice Research Institute, the National Committee on Trafficking in Women and Children was currently setting up an electronic database to monitor human trafficking, including the processing of each particular case. The project was scheduled to be completed by the end of 2005. Experience had shown that most cases of child labour concerned non-Thai nationals. However, the situation had improved since the Government had implemented policies to combat forced child labour and trafficking in persons.

The meeting rose at 6 p.m.