



Submission of the Network of Indigenous Peoples in Thailand to inform the Committee's elaboration of its List of Themes concerning Thailand's Combined Fourth to Eighth Periodic Reports

The Network of Indigenous Peoples in Thailand (NIPT) is an indigenous peoples' movement organization in Thailand was formed in 2007 with the members of 17 individual Indigenous Peoples' networks, and currently has members more than 42 members in nationwide. It exists to promote and protect the rights of indigenous people in Thailand. These include, but are not limited to, monitoring the implementation of international human rights commitments of the Royal Thai Government (RTG) such as UPR, ICCPR, ICESCR, CEDAW, CERD, etc. It intended to ensure that indigenous peoples' issues and rights are adequately addressed and fulfilled by the state.

NIPT's representative had experienced to participate in previous CERD committee meeting and committed to follow up the next periodic reports that RTG submitted to the Committee on the Elimination of Racial Discrimination in 2019. NIPT members and its partners have organized the related workshops to discuss this issue and decided to jointly prepare a shadow report to be submitted to the CERD committee. NIPT and its partners are also inviting indigenous leaders and affected communities from different parts of Thailand, particularly those currently faced with human rights violations to testify and validate this report, and it will be finally sent to CERD committee in June 2020.

1. Laws and Policies Discriminating and Impacting on Indigenous Peoples

1.1 Generally, laws and policies rendering discrimination against and with impact on indigenous people in Thailand have been executed in increasing number of incidences. Examples can be drawn from the Forest Reclaiming Policy and its implementation that reflect unjustly discrimination. The fact that all the lands in the whole country is partly occupied 57 percent by the State and the other part of 43 percent is occupied by individuals and private sector, about 10 percent of the richest people in Thailand occupies in total 95 million *rai* (15.2 mil. ha.) while 10 percent of the poorest group occupies only 68,000 *rai* (10.8 ha.). However, many indigenous communities, among the poorest group, have been affected by this Land Reclaim Policy. Part of farm lands of indigenous communities have been confiscated, regardless of ancestor domain and long-time inheritance of land use.

1.2 While indigenous communities are treated with stringent measures of Land Reclaim Policy, investors from private sector have been facilitated in many ways for mining concession, or special economic zones even overlaying on the forest reserves. Investors can make use of land for 50 years in special economic zones and 99 years in EEC zones¹, but small farmers living in the boundary of national park have to apply for usufruct licenses up to merely 20 years; without such licenses local farmers can be sent to courts of both civil and criminal judgment.

1.3 Although the NCPO² Orders of 64/2014 and 66/2014 on Land Claim Policy have already been waived, the NCPO Chief's Order of 9/2019, article 8 stipulates that all the implementations following these Orders are presumably conformed to the National Constitution and organic laws. This means that the Land Reclaim Policy has been carried on up-to-now with reference to the Master Plan on Forestry enforced by the Ministry of Natural Resources and Environment (MNR) in conjunction with the Internal Security Operations Command (ISOC). The power of these Orders is delegated to official authorities to expel indigenous and poor communities from the protected areas. Hence, from 2014-2019, indigenous and local people were sent to court in total of 29,350 cases; and their farm lands were confiscated amounting to 853,603 *rai* (136,576.48 ha.). Only in one year, 2019,

¹ Learn more about EEC at: <https://thaiembdc.org/eastern-economic-corridor-eeec/>

² National Council for Peace and Order

indigenous and local people were charged with encroaching the protected areas and sent to court 2,851 cases in total and their farm lands of 108,385 *rai* (17,341.6 ha.) were taken away. This year, 2020, there is an accumulation of 1,830 forest encroachment cases and more against indigenous and local people³.

1.4 The occurrence of these problems is basically based on at least three mindsets: (1) The Government intention to separate people from the forest leading to longstanding dispute between State apparatuses and the people through discrimination on the one hand, but facilitation for investors on the other; (2) The Government has determined 40 percent increase of forest cover throughout the country in ten-year-time from the existing 31 percent. Thus, the national Master Plan on Forestry has been formulated in such a way to render negative impact on indigenous and local communities living in the forests; and (3) The legal measures following the standard justice system are full of bias, prejudice, and negligence against indigenous and local communities in terms of ancestor domain, customary livelihood, and land inheritance ideologies.

Recommendations for Questioning the Thai Government by UN-ICERD Committee

1. The fact that there have been numerous communities of indigenous communities living in the forests, probably from time immemorial, why does the Thai Government not recognize this fact? Does the Thai Government realize that its plan, policy, and execution through the negligence of communities in the forests is the violation of human rights in several aspects, namely, right to ancestor domain, right to customary livelihood, right to land, resources, and territory, and right to intangible cultural heritage?

2. What would the Government do to solve the problem of concentration of land holding among the top ten percent of rich people, instead of attacking small farmers with stringent laws and policy that push them to more marginal sector?

3. If and when the Thai Government comes to realize of its mandate to respect the principle of human rights, how can one be assured of the continuity of human rights upholding by the Government as well as its apparatuses?

2. Court Cases Concerning Racial Discrimination

2.1 There is the tendency that court cases against indigenous communities is increasing both in number and seriousness, but old court cases remain unresolved. For example, the case of the disappearance by force of a young Karen human rights defender, Mr. Polajee, or Billy, Rakjongcharoen in Kaeng Krajan National Park in Petchaburi province since 2014 has been delayed for many years until several bone fragments were found in a barrel sunk under the river in that National Park and later the bone fragments were proved to share the same genetic code with Billy's mother. It is obvious that Billy was killed and dumped in the river. The Department of Special Investigation (DSI) issued the arrest warrant to a number of park rangers, unfortunately, the State Attorney declined to send the case to court.

Recommendations for Questioning the Thai Government by UN-ICERD Committee

1. Why does the Thai Government not cast its doubt on the attorney's dismissal of an obvious case of Mr. Billy's forced disappearance? With all the evidences pointing to the forced disappearance of the victim, if the attorney concluded that the case was short of evidence, why has no investigation been suggested further?

³ For more detail, please, go to https://www.nationthailand.com/news/30372624?fbclid=IwAR1A_yRs0QY2dcDhrcmiCmSxmMJcfNLlpsjCWayb-Ho58cw7y0cfAHnmaMw

3. State Support of Blasphemy against Minority Religious Groups

3.1 Thai Government, through ISOC, provides financial support to agencies producing information operation via website, *pulony.blogspot.com* with its intention toward people segregation by attacking minority religious groups in the Deep South with academic, human rights defenders and NGO workers as their advocates.

3.2 Officially, indigenous people are always accused of destroying the forest, causing flood in the lowland, and drug trafficking. Thus, indigenous people have been stigmatized since the beginning of Government intervention in highland communities. The public has absorbed such negative stereotype of indigenous people in the country influenced by the Government apparatuses.

Recommendations for Questioning the Thai Government by UN-ICERD Committee

1. How would the Thai Government and the Rights and Liberties Protection Department formulate the concrete plan to halt the dissemination of negative information against indigenous people? What agency at the national level can investigate the process of information operation with ill-intention toward social segregation and racial discrimination?

4. Problems of Non-Citizenship and Statelessness

4.1 According to the information from the Registration Services Bureau, Department of Local Administration, as of December 2019, there were 727,926 non-registered people. This does not include about 90,640 stateless children who are learning in schools (2016 statistic, Ministry of Education) and learning centers.

4.2 There are unknown number of indigenous communities located in remote areas inaccessible by outsiders. This implies that many indigenous people with no citizenship will completely lack of access to public services and political participation. Although students with no citizenship can pursue their education to the limit of their ability, they cannot enter into labor market after their graduation.

Recommendations for Questioning the Thai Government by UN-ICERD Committee

1. When does the Thai Government determine to review and resolve the problem of non-citizenship and statelessness with proper time-frame so as to allow these vulnerable people to enjoy their basic human rights?

2. What should the Ministry of Interior do to provide opportunity for stateless children who are born in Thailand to become full members of Thailand with equal rights to other citizens?

3. What should the Thai Government, through Ministry of Social Development and Human Security, do to alleviate disparity in social structure that leads to racial discrimination and prejudice?

5. Rights to Health Care

5.1 Thailand has announced its 'Health for all' policy since 2002, but approximately 700,000 people who are on the waiting list for citizenship verification are not entitled to free health care services with reference to the law on public health.

5.2 In the past, two Cabinet Resolutions were made: first, to grant basic rights to 457,409 people with no legal status (23 March 2010); and second, to grant equal rights to health care to 208,631 people with no citizenship. Unfortunately, about 90,640 children with no citizenship in schools were not included in the free health care system.

Recommendations for Questioning the Thai Government by UN-ICERD Committee

1. To what extent can Thai Government provide 'Health for all' in real term throughout the country?

6. Rights to Education

6.1 There is no clear policy to promote mother language education in public school. Even schools located in indigenous communities have no intention to integrate indigenous culture and livelihood into school curriculum.

5.2 With reference to the National Education law, community learning centers are entitled to the budget allocation from the Government through the Ministry of Education, so far, none of community learning centers has been given financial and technical support from the Government. The majority of community learning centers belong to indigenous communities that they have to strive for financial support elsewhere.

Recommendations for Questioning the Thai Government by UN-ICERD Committee

1. Should the Thai Government adopt the 'Inclusive Education' policy in all public schools where indigenous students can enjoy learning about their own culture as well as mother language in addition to the core curriculum?
2. How possible is it that the Thai Government can provide financial and technical support to all community learning centers as stipulated in the National Education Act?

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