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Held at the Palais Wilson, Geneva, on Monday, 13 March 2017, at 3 p.m.

Chair: Mr. Fathalla (Vice-Chair)

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Mr. Fathalla (Vice-Chair) took the Chair.

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

Consideration of reports submitted by States parties under article 40 of the Covenant

Second periodic report of Thailand (CCPR/C/THA/2; CCPR/C/THA/Q/2 and Add.1)

1. *At the invitation of the Chair, the delegation of Thailand took places at the Committee table.*

2. **Mr. Chaiyanukil** (Thailand), introducing the second periodic report of Thailand (CCPR/C/THA/2), paid tribute to the contribution made by civil society to the preparation of the report. Civil society associations' willingness to work constructively with the Government would bring genuine benefits to the people of Thailand.

3. The draft Constitution approved by referendum in 2016 embraced the basic principles of civil and political rights, including equal rights and protection under the law, non-discrimination, prohibition of torture, freedom of expression and freedom of religious belief. The draft Constitution also provided for the efficient, fair and non-discriminatory administration of justice and facilitation of public access to convenient, speedy and low-cost proceedings and legal assistance to the poor and underprivileged. In that regard he noted that a risk assessment system had recently been introduced to allow the release on bail and without collateral of pretrial detainees suspected of less serious crimes, a measure that would help ensure greater equality of treatment for persons of limited means and address the problem of prison overcrowding.

4. The third National Human Rights Plan, more comprehensive than previous plans, identified key issues and 15 target groups, with specific action plans to address each group's particular needs. There was a strong political will in Thailand to reduce statelessness among children. Its reservation to article 7 of the Convention on the Rights of the Child, relating to immediate registration after birth and the right to acquire nationality, had been withdrawn. In December 2016 the Cabinet had approved a resolution on ways to address the problems of stateless persons in Thailand; under that resolution, some 80,000 stateless children and young adults could apply for Thai nationality. Protection of children had been further strengthened by an amendment made to the Criminal Code in 2015 establishing child pornography as a separate offence.

5. Thailand was not immune to today's global challenges, not least the quest for a balance between the right to freedom of expression and the protection of the rights and reputation of others, and the need to maintain security, public order and the morals of society as national priorities. The use of social media and the spread of hate messages on Internet had compounded the complexity of the problem.

6. Thailand endeavoured to deal with migrants in accordance with its tradition of upholding human rights and humanitarian principles. There were more than 1.4 million migrant workers in the country, and its regularization of undocumented migrant workers had made it possible to better protect them. In January 2017 the Cabinet had approved in principle a proposal to amend the Immigration Act and set up a screening mechanism. Further discussion would be carried out among the agencies concerned with a view to setting up a system to better distinguish economic migrants from those in genuine need of protection.

7. Thailand was a country still in transition. It continued to exercise its right of derogation under article 4 (1) of the Covenant. His delegation had come in good faith to report on his country's efforts to protect civil and political rights at a juncture that reflected the legacy of a highly politicized and divided society. It took pride in its country's achievements and was willing to learn how to make even further progress.

8. **Ms. Waterval**, noting that the Government's written replies to the list of issues (CCPR/C/THA/Q/2/Add.1) referred to both the Interim Constitution and the current draft Constitution, said that she would like to know which text was currently in force. Assuming that the draft Constitution would eventually replace the Interim Constitution, she would like to know in what way it would improve protection of the rights of Thai people.

9. Referring to paragraph 24 of the written replies, she asked whether the new National Women's Development Plan was still being prepared or was now being implemented. She would like to know more about the gender equality curriculum referred to in paragraph 25 and would appreciate statistical data on the numbers of women in the various branches of government and in the police force. She requested more information on the proposed amendment to section 277 of the Criminal Code revoking the possibility of marriage between children in cases where illegal sexual relations had taken place; she would like to know if that proposal was intended also to cover adult perpetrators.

10. She said that she would like to know if the Committee on Consideration of Unfair Gender Discrimination had yet received any complaints and if so how many, and whether it had carried out any investigations. Referring to paragraph 35 of the written replies, she said that she would like to know if lesbian, gay, bisexual and transgender (LGBT) persons were permitted to perform military service. She would also appreciate an update on the status of the National Policy Framework on Protection of Children from Bullying and Sexual Harassment in schools.

11. She was grateful to the delegation for the data provided in the written replies on cases of violence; information on the number of convictions in those cases, the sentences handed down and any compensation awarded would also be appreciated. According to information received, the Domestic Violence Victim Protection Act of 2007 was to be replaced by the bill on the protection and welfare of persons in the family. She would like to know if that was correct and whether the bill had already been enacted. She wondered whether the bill contained a definition of sexual harassment, which had been lacking in the 2007 Act, and in general whether victims would be better protected.

12. **Mr. Iwasawa** said that there were concerns that the Interim Constitution lacked the human rights protections contained in the previous Constitution. In particular, section 44 granted sweeping legislative, executive and judicial powers to the National Council for Peace and Order, which had used those powers to issue orders restricting rights under the Covenant. The Thai courts had determined that, under section 47 of the Interim Constitution, Council orders were not subject to judicial review. Furthermore, section 279 of the new draft Constitution established the legality and constitutionality of Council orders past and future and, under section 48 of the Interim Constitution, Council members were immune from legal accountability for their actions. He would appreciate the delegation's comments on those issues. He understood that the State party planned to review all official decisions adopted by the Council in order to determine which ones should be revoked and which should pass into law. He would like to know whether that review would involve input from independent experts and civil society, whose contribution the Committee greatly valued. He would appreciate an update on the latest amendments to the draft Constitution as well as on the outcome of discussions regarding the withdrawal of the State party's interpretative declarations on article 1 (1) and article 20 of the Covenant.

13. According to information received, migrant workers who underwent nationality verification received pink cards, which negatively impacted their status, while others whose situation had been regularized were prevented under the present policy from travelling to their countries of origin; moreover their access to social security benefits was hampered. He would appreciate the delegation's comments on those claims.

14. According to the written replies, of the 15 complaints submitted to the National Human Rights Commission since 2009, 7 had been determined to be well founded and had been referred for action. He would like to know what action had been taken on those cases.

15. He welcomed the information provided regarding the measures to protect human rights defenders. However, he would appreciate information on the recent detentions carried out with a view to "attitude adjustment" and participation in a "re-education programme", including details of such programmes.

16. According to information received by the Committee, since the coup d'état in May 2014 there had been an increase in the frequency of attacks against human rights activists. Their work had been criminalized under new legislation and law enforcement officials had been given broad discretionary powers to justify the arrest and detention of those who criticized the Government. He would appreciate the delegation's comments on those reports.

He welcomed the establishment by the Ministry of Justice of a working committee on development of measures to protect human rights defenders; he wondered how successful it had been thus far in addressing the situation of human rights defenders.

17. **Mr. Politi** said that, notwithstanding the broad powers and functions of the National Human Rights Commission, the establishment by the Ministry of Justice of the Coordination Committee to follow up implementation of the Commission's recommendations, and the fact that new legislation to further enhance the Commission's efficiency was in the pipeline, the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) had expressed concern about the Commission's composition, structure and functions. The Committee would like clarification as to whether all stakeholders identified by the Paris Principles were represented and also as to the criteria used in assessing candidates' qualifications.

18. Noting that, in its national report to the 2016 universal periodic review, Thailand had stated that the National Human Rights Commission's annual budget was sufficient for it to carry out its mandates effectively and with autonomy, he said that he would appreciate figures for the amounts allocated to the Commission in the past five years, including funds requested by the Commission and granted from the Government's central fund for contingency activities, and also the Government's other voluntary contributions. He would be interested to know whether the Commission was empowered to reach out directly to the public through the media, an important indicator of the independence of any such body. He wondered what impact the establishment of the Coordination Committee had had on the effective implementation of the Commission's recommendations, and what other measures were in place to guarantee their full and timely follow-up, particularly where they related to cases of torture or excessive use of force by State officials, protection of individuals against deportation and detention under the provisions of martial law and narcotics legislation.

19. The written replies stated that Thailand did not allow impunity and that Order No. 3/2015 of the National Council for Peace and Order and section 48 of the Interim Constitution did not provide for de facto impunity for government personnel. Immunity was granted only to officials who performed their duty in good faith, and without bias or undue severity; they would be held liable for unlawful acts or abuse of power, which were punishable offences. Yet in fact reports indicated that human rights violations continued to be widespread, including extrajudicial killings and ill-treatment by police and the armed forces. Little progress had been made in investigating and establishing liability for the unlawful shooting of civilians during the political violence in 2010. Measures taken under the Interim Constitution since the military coup in May 2014, including the imposition of martial law, had weakened rather than reinforced the protection of human rights, particularly in the southern provinces where the emergency laws had been applied. He would appreciate specific information on measures taken to improve the mechanism to combat impunity for human rights violations, particularly acts of torture and ill-treatment, enforced disappearance, violations committed during detention, infringements of the right to privacy, and action against human rights defenders, lawyers, environmentalists and journalists. He would like statistics on the effective and genuine prosecution of cases of human rights violations and the outcome of proceedings. Were investigation and prosecution now carried out by an independent civil body, or by the military authorities as before? In the context of complaints of torture, he would like to know whether detained persons were given a physical examination before detention commenced.

20. On the question of impunity, he said that it was not difficult for an accused official to argue that he had performed his duty in good faith and without undue severity; it would be extremely difficult for the complainant to prove otherwise. He would therefore like to know how Order No. 3/2558 of the National Council for Peace and Order and section 48 of the Interim Constitution were applied in practice by the courts and how many cases against State officials had been tried in the past five years.

21. **Mr. Shany** said that the scope of the 2014 derogation of the rights under paragraphs 12 (1), 14, 19 and 21 of the Covenant, in the context of the state of emergency declared under martial law, was not clear to the Committee. He would like to know whether the Emergency Decree on Public Administration in Emergency Situations, of 2005, which applied to the southern provinces, and the Act on Internal Security Protection in the

Kingdom, of 2008, were still in force and what impact they had on the 2014 derogation. He would also like information on any specific derogations applied in the southern provinces that went beyond the terms of the 2014 derogation.

22. Noting that the State party had not derogated from article 9 of the Covenant, he would be interested to know the legal basis for the practice, under the Martial Law Act, of extending detention without judicial review for 30 days. Further, he would appreciate the delegation's comments on reports that individuals were being detained in unofficial places of detention. Did the State party consider that to be covered by the derogation?

23. He would be interested to know more about the relationship between the state of emergency and the enhanced application of the lese-majesty law, and about the transfer of lese-majesty offences from the civil to the military jurisdiction. Now that martial law had been lifted, the relevance of the state of emergency was not clear. The Committee was concerned that Orders Nos. 3/2558 and 5/2558 of the National Council for Peace and Order and section 44 of the Interim Constitution left in place many of the extraordinarily broad powers that had been held by the military Government. It was also concerned at the changes made to the liability regime during the state of emergency that might allow impunity to continue beyond the period of emergency.

24. He welcomed the State party's de facto moratorium on the death penalty and its interest in moving towards abolition. The death penalty was nevertheless still on the statute books, notably for certain offences the Committee did not consider to be among the most serious, such as narcotics offences, and it had been introduced for certain corruption offences. He would be interested to learn why Thailand had abstained in recent General Assembly resolutions on the moratorium for the death penalty and, in the light of its own moratorium, what its position was with regard to ratification of the second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.

25. He would appreciate details on the public consultation on capital punishment being planned by the Ministry of Justice. The public was apparently not very supportive of abolition but the Government's role was to influence public opinion in accordance with international standards, not merely to follow it. He asked whether there were any offenders still on death row and how many of them had been convicted on drug or corruption charges.

26. Prison conditions, including extreme overcrowding, were a major concern. He would welcome information on the treatment of prisoners with mental disabilities, specifically any adjustments made to accommodate their special needs. He would also like to know more about the use of physical restraints such as chains, and of solitary confinement, whether as a punishment or as a means of preventing escape from low-security prisons, for example. He asked whether the delegation was aware of widespread sexual harassment in prisons and, if so, what action it was taking to prevent it. In general, he would appreciate an explanation of the monitoring mechanisms in place to oversee prison conditions. Lastly, given that civilians were now also being detained in military prisons, he would like to know whether lawyers had easy access to all facilities including military prisons.

27. **Mr. de Frouville** said that he would like to know when the bill on prevention and suppression of torture and enforced disappearance was likely to be enacted. According to information received, it had been submitted to parliament, which had subsequently referred it back to the Government. Did the Government intend to resubmit it and if so when? Several sources claimed that the definitions of the offences in question did not meet the standards of the Convention against Torture and the Convention on Enforced Disappearance, respectively; he would be grateful if the delegation could provide the Committee with the proposed definitions in writing. In addition, he would appreciate confirmation of the claim that the bill did not contain a prohibition on the use of statements obtained under torture.

28. He understood that there was as yet no plan to establish a national mechanism for the prevention of torture. He would like to know if that was correct, and also when the State party intended to ratify the Optional Protocol to the Convention against Torture. He said that he would appreciate confirmation of information to the effect that parliament had

authorized ratification of the Convention on Enforced Disappearance and asked when ratification might take place.

29. While welcoming the figures from several different agencies regarding unlawful use of force, violation of the right to life, enforced disappearance, torture and extrajudicial executions, allegedly committed by State officials, he would appreciate receiving detailed consolidated figures for the country as a whole, including the number of prosecutions and trials and details of any compensation awarded. The figures given in the replies for such offences showed, according to the State party, a drop in the number of complaints but the figures went up to 2012 only; he would therefore appreciate receiving detailed figures for the years 2012 to 2016. He would also like to know the outcome of the investigations undertaken into the events mentioned in the report, in which numerous human rights violations had taken place, notably the Tak Bai incident and the violence that had occurred during the anti-narcotics campaign. During that campaign some 2,600 people had been killed, possibly, according to the State party, owing to mistakes in the implementation of the drugs suppression policy. He would appreciate knowing the status of the prosecutions still pending before the courts in that context.

30. Referring to paragraph 57 of the State party's written replies, he said that the Committee would appreciate information regarding any cases in which compensation had been granted under the 2012 Regulations of the Strategic Committee for Development of Southern Border Province. Noting that State officials found to have committed unlawful acts were liable to disciplinary measures, he said that, in respect of torture, disciplinary measures did not on the face of it meet the standard of punishment set in the Covenant.

31. He requested information about several cases of alleged extrajudicial killing, death in detention and enforced disappearance targeting human rights defenders and environmental activists, including Somchai Neelapaijit and Porlajee "Billy" Rakchongcharoen. The Working Group on Enforced and Involuntary Disappearances had been apprised of 82 such cases, a figure that according to some sources underestimated the real situation. He would appreciate detailed information about any such cases known to the State party and would like to know whether the State party intended to invite the Working Group to visit in the near future. He would also appreciate updated information on the status of the investigations into other cases of enforced disappearance, some of which had been closed on the grounds that the victim's body had been found or that the person's spouse could not produce a marriage certificate. Such grounds were too flimsy to outweigh the State party's obligation to investigate disappearances ex officio, regardless of the existence or otherwise of a complaint. He would also appreciate details of steps taken to look into the allegations of enforced disappearance and torture brought by Ms. Kritsuda Khunasen, a case raised by the Committee in the list of issues.

32. He would be interested to know if it was correct that the head of the National Council for Peace and Order had invoked section 44 of the Interim Constitution 124 times in two years in order to make amendments to the legislation on a wide range of subjects. The State party had stated that the Interim Constitution and Orders Nos. 3/2015 and 13/2016 did not grant officials additional powers. Those orders nevertheless appeared to violate not only international law but also national law, notably the Criminal Procedure Code, for example in permitting the holding of an individual for up to 7 days in an unofficial detention centre without judicial oversight and the extension of that period for a further 30 days.

33. Reliable sources reported that, after the coup in May 2014, activists, members of political parties, journalists and human rights defenders had been subjected to detention for attitude adjustment and re-education. According to the State party, those arrested under Order No. 13/2016 were to be held in places other than prisons, which were reserved for offenders; families were "usually" notified and access to a doctor was allowed "when necessary". It was important to bear in mind that unacknowledged deprivation of liberty in an unofficial place of detention, such as a military base, could constitute enforced disappearance.

34. The transfer of cases arising after 12 September 2016 from the military to the ordinary jurisdiction, under Order No. 55/2016, was a welcome development. The Order

nevertheless had no retroactive effect and hundreds of cases therefore remained before the military courts and were very likely to be tried with no regard to the guarantees provided under the Covenant, notably article 14. It would be interesting to hear what measures the State party envisaged taking to transfer the remaining cases to the ordinary courts and to review the judgments handed down by the military courts to date.

The meeting was suspended at 4.15 p.m. and resumed at 4.35 p.m.

35. **Mr. Suriboonya** (Thailand) said that the once male-dominated Royal Thai Police had, over the previous 15 years, become increasingly inclusive and gender-balanced. Women currently accounted for 7.5 per cent of all officers and 3.4 per cent of police generals. The numbers, though still low, were expected to grow in the future as recruitment processes were merit-based and therefore non-discriminatory. Since 2009, an average of 70 women per year had enrolled in the Police Academy. The highest-ranking women graduates, of whom there were 630 in total, were police captains.

36. In April 2016, following a period of political instability, the Government had adopted the Constitution Referendum Act with the aim of creating an atmosphere conducive to the orderly consideration of the draft Constitution in the build-up to the constitutional referendum of 7 August 2016. Section 7 of the Act guaranteed the freedom to express opinions on the draft Constitution in good faith and in accordance with the law, while section 61 provided for restrictions on that freedom, but only so as to discourage behaviour that might incite discord or instigate further social divisions liable to disrupt the referendum process. Section 61 was thus compatible with article 19 (3) (b) of the Covenant, which established that the exercise of the right to freedom of expression could be subject to restrictions for the protection of national security or public order. Most of the cases that had been brought under the Act were at the investigation stage, during which all suspects were invited to present evidence to defend themselves.

37. Under previous governments, public assemblies in Bangkok and other cities had led to traffic congestion and damage to public property. Such developments had motivated the Government to adopt the Public Assembly Act, which had entered into force on 12 August 2015. The Act — the first of its kind in Thailand — set out a clear procedure for organizing public protests and gatherings under which organizers were required to notify the relevant chief of police of any such gathering at least 24 hours in advance. Notification could be given by letter, fax or e-mail and exemptions were possible.

38. Once they had been informed of an assembly, the police had a duty to facilitate its organization, prevent criminality, maintain peace and order, protect participants and manage traffic flows. They did not spy on protesters or in any way obstruct proceedings, but they did make arrests if necessary. Section 8 of the Public Assembly Act stipulated that assemblies should not block access to public buildings, such as schools and hospitals. The Act also provided that the use of force and firearms should be kept to a minimum, in compliance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Since the entry into force of the Act, all of the 53 requests to organize a public assembly in Bangkok submitted to the authorities had been granted.

39. **Mr. Thanghong** (Thailand) said that the Government recognized the vulnerability of migrant workers and spared no effort in upholding their rights. At the end of 2016, there had been an estimated 1.3 million documented migrant workers from neighbouring countries in Thailand; of those, 900,000 had been issued temporary passports by their home governments and 400,000 had been supplied with pink cards by the Thai Government. In addition, around 1.4 million foreign nationals had been granted a temporary worker visa. Pink-card holders were covered by the Labour Protection Act of 1998 and could apply for insurance under the Social Security Act of 1990 provided that they had a work permit and a national identity document. Persons without such a document could not apply, but did have access to workplace compensation schemes and to health care provided under the supervision of the Ministry of Public Health.

40. The Government was working closely with the authorities in neighbouring countries to expedite the regularization of migrant workers. Beginning in April 2016, pink-card holders had been entitled to return to their countries of origin to celebrate Songkran with

their families. In 2017, the Government planned to allow them to leave Thailand for up to 20 days for that purpose.

41. **Ms. Benjasil** (Thailand) said that the National Human Rights Commission, which had been founded pursuant to the 1997 Constitution, had first obtained “A” status accreditation from ICC in 2004. Following the adoption of the 2007 Constitution, however, changes had been made within the Commission, resulting in the decision by ICC, in October 2014, to downgrade the Commission to “B” status. With regard to recent legislative developments concerning the Commission, she drew the Committee’s attention to paragraphs 9 to 11 of the replies to the list of issues (CCPR/C/THA/Q/2/Add.1). The committee tasked with selecting members of the Commission included representatives of human rights NGOs and of recognized academic institutions that offered human rights courses.

42. On 25 January 2017, the Constitution Drafting Committee had organized a public consultation attended by representatives of civil society, the National Legislative Assembly, the National Reform Steering Assembly, political parties, government agencies and the media. The event had provided an opportunity to raise awareness of the new draft Organic Law on the National Human Rights Commission and to collect valuable feedback. The budget allocated by the Government to the Commission had increased year on year, from US\$ 1.14 million in 2001 to US\$ 6.11 million in 2016. Although care was taken to ensure that the allocation was sufficient to enable the Commission to discharge its mandate fully, extra funds could be requested from the Government’s central fund for contingency activities if necessary. Thailand shared best practices with other countries, including Australia and Viet Nam, and cooperated with the Office of the High Commissioner for Human Rights in Bangkok with a view to making the Commission as effective as possible.

43. **Ms. Kangwanjit** (Thailand) said that the eleventh National Economic and Social Development Plan and the National Women’s Development Plan thereunder were still being implemented, as the twelfth Plan, covering the period from 2017 to 2021, was awaiting Cabinet approval. Women currently occupied 18.34 per cent of senior positions in the executive branch, 6.5 per cent of seats in the National Legislative Assembly and 17.31 per cent of all posts in the judicial branch.

44. Efforts to eradicate domestic violence in Thailand were hindered by the fact that such violence was still widely viewed as acceptable. It was also considered to be a private matter, which meant that many cases went unreported. In 2015, out of a total of 256 complainants, 204 had decided to press charges, although 21 had subsequently reached out-of-court settlements. The Government was endeavouring to raise awareness of the issue through national and local events, handbooks and other media. In 2007, it had amended the Criminal Code to establish marital rape as a separate offence. It was aware of the need to collect and disaggregate data in order to gauge the effectiveness of its policies to tackle violence against women and to meet the relevant Sustainable Development Goals. In January 2017, the Cabinet had approved a bill to replace the Domestic Violence Victim Protection Act of 2007. The bill, which had been submitted to the National Legislative Assembly for its consideration, would cover sexual harassment and provide for even more comprehensive measures to combat domestic violence and to afford protection to victims.

45. **Ms. Amatavivat** (Thailand) said that the Ministry of Education was working with the Ministry of Social Development and Human Security to design a gender equality curriculum. As part of the curriculum, gender issues would be addressed in social studies classes and, to a lesser extent, in other subjects. Textbooks were being revised and gender sensitivity training modules were being prepared for teachers. The Ministry of Education, with the support of the United Nations Educational, Scientific and Cultural Organization, had translated a handbook on preventing gender-based violence in schools into Thai. Training in the application of the handbook, which was directed at students in early secondary school, had been provided to some teachers as part of a pilot project that would soon be expanded to schools nationwide.

46. **Mr. Osathanon** (Thailand) said that the Emergency Decree on Public Administration in Emergency Situations was applied in the southern border provinces to protect peace and order by enabling law enforcement officials to obtain court warrants in a

timely fashion and to arrest and detain suspects. The Decree was viewed as a necessary response to indiscriminate attacks on State officials and civilians in the region. The Internal Security Operations Command had drafted an action plan on the lifting of the Decree that would come into effect when all stakeholders had agreed on an appropriate time.

47. Since 2010, the Government had revoked special security laws in four districts of Songkhla Province and one district of Pattani Province as part of a policy of gradually discontinuing the implementation of such laws in the southern border provinces. Martial law was implemented in 31 border provinces, which were particularly affected by organized crime, to prevent potentially violent situations from escalating. Under martial law, suspects could be detained without charge for a maximum of seven days. Under the Decree, arrest and detention warrants could be issued only by a court of law. Detention without charge was limited to an initial period of 7 days, extendable by reasoned decision for up to a maximum of 30 days.

48. **Ms. Patarachoke** (Thailand) said that section 4 of the 2014 Interim Constitution, which was the constitution in force, guaranteed all the rights and liberties enshrined in previous constitutions. The new draft Constitution had been approved by 61.35 per cent of voters in a referendum held on 7 August 2016. It provided a broader guarantee of rights, including those not explicitly mentioned in the document, by prohibiting restrictions other than those needed to maintain security, public safety and peace and order, or to protect the good morale of the people or the rights and freedom of others. It also required the State to ensure access to education, health care, utilities and other basic services.

49. Pursuant to section 26 of the new draft Constitution, all laws must comply with the Constitution and the rule of law, and must not be detrimental to human dignity or impose arbitrary restrictions. In section 77, it was stated that multi-stakeholder consultations should be held prior to the enactment of any law. Recent amendments to certain sections of the draft Constitution concerned only royal prerogatives and did not affect provisions on the rights and liberties of citizens.

50. On 17 February 2017, the Prime Minister had presented the amended version of the draft Constitution for royal assent, which would be granted within 90 days. Thereafter, the Constitution Drafting Committee would have 240 days to prepare a series of draft organic laws and to submit them to the National Legislative Assembly, which would have 60 days to consider them and an additional 30 days for revision. The laws would be presented for royal assent, which would again be received within 90 days, at which point general elections would need to take place within 150 days.

51. **Mr. Nakmuang** (Thailand) said that the objective of section 44 of the 2014 Interim Constitution was to enable the Government to put an end to violence, political conflict and social division, and to restore peace and stability. The powers granted under that section, which was modelled on article 16 of the French Constitution, were similar to those conferred by the charters and constitutions adopted in Thailand in 1959, 1972, 1976, 1977 and 1991.

52. All orders issued by the National Council for Peace and Order were carefully reviewed with the aim of minimizing their impact on the enjoyment of civil and political rights. Since the adoption of the 2014 Interim Constitution, 137 orders had been issued, of which only 4 had concerned threats to peace and security. In accordance with section 265 of the new draft Constitution, the Council would cease to operate and section 44 would become void once the next government had taken office.

53. Since May 2014, there had been a gradual relaxation or revocation of orders. On 12 September 2016, the Prime Minister, in his capacity as head of the Council, had issued an order declaring that all offences committed on or after that date and which had previously come under the jurisdiction of military courts, including the crime of lese-majesty, would fall under the jurisdiction of the Court of Justice.

54. **Mr. Bovornratanaraks** (Thailand) said that military court procedures had to be in line with the Criminal Procedure Code, which guaranteed the right to a fair trial in accordance with international standards. Defendants were entitled to the same rights as they would be in civilian courts, including to a fair and public hearing, to counsel and to bail.

More than 90 per cent of the cases tried in military courts involved the possession and/or use of heavy firearms, ammunition or explosive substances used in warfare.

55. Offences committed before 12 September 2016 would remain under the jurisdiction of military courts for a number of reasons. First, transferring cases was time-consuming and would not benefit the parties. Proceedings would have to start again from scratch, and suspects' and defendants' rights might be affected. Secondly, in some ongoing cases, a number of persons had already pleaded guilty and would thus be prosecuted twice for the same crime. Thirdly, there was no legal provision for the transfer of cases from military to civilian jurisdiction, which could lead to problems during the appeals process.

56. **Mr. Iwasawa** said that he would appreciate a response from the delegation to allegations that several orders issued under section 44 of the 2014 Interim Constitution unduly restricted rights guaranteed by the Covenant.

57. **Mr. Heyns** said that he would welcome information on the process by which orders issued under section 44 were reviewed so as to determine which would become laws. He would also be grateful for details and, if possible, a hard copy of domestic laws that imposed limits on the use of force by law enforcement officials.

58. **Mr. Shany** said that additional information on the situation in the southern provinces would be appreciated. Although organized crime was a serious issue, its occurrence alone was not typically sufficient to justify the adoption of measures derogating from the Covenant.

59. **Mr. de Frouville** said that, despite the obstacles cited by the delegation, the transfer of cases from military to civilian jurisdiction would arguably be advisable in the light of concerns regarding, inter alia, the composition of military tribunals and an alleged failure to respect the right to counsel. He would appreciate a response to his question on unacknowledged deprivation of liberty in unofficial places of detention.

60. **Mr. Politi** said that he would be grateful for a response to his comments in relation to Order No. 3/2015 of the National Council for Peace and Order and section 48 of the Interim Constitution; in particular, he wished to know how the provisions on immunity were applied in practice, especially by courts.

61. **Ms. Waterval** said that she would appreciate a response to her request for information on the number of convictions for domestic violence, on the sentences handed down and on any compensation awarded to victims, as well as to her earlier questions on the proposed amendment to section 277 of the Criminal Code.

62. **Mr. Muhumuza** said that the Committee wished to be informed not only about the existence of laws protecting human rights but also, more importantly, about their implementation, which, according to alternative sources, left much to be desired. It would be helpful to receive information on the composition of the Court of Justice, on the extent to which it was independent, on the appointment processes for judicial officers and on whether military tribunals respected the right to a fair hearing in all cases.

63. **Ms. Pairchaiyapoom** (Thailand) said that, on 17 February 2017, there had been 194 persons, 177 of them men and 17 women, under sentence of death in Thailand for drugs offences, offences against life, offences against liberty and offences against property, but none on corruption charges. Persons subject to the death penalty were eligible to seek a royal pardon, which could delay execution or commute the sentence to life imprisonment. In 2016, a royal pardon had been granted in two cases. In accordance with the outcome document of the 2016 special session of the United Nations General Assembly on the world drug problem, Thailand had amended its legislation: the death penalty was no longer the only option and offenders could be sentenced according to the seriousness of their specific crime.

64. With regard to corruption, she drew attention to the Government's reply to paragraph 10 of the list of issues, on the provisions of the Organic Act on Counter Corruption of 2015, an item of legislation that had been introduced in response to the public's wish to see the Government take a serious stand on the country's chronic corruption. The Act did not create a new offence but extended coverage to acts of foreign

officials. The death sentence was not obligatory; the court could exercise discretion depending on the seriousness of the case. In fact, the Government, through the Ministry of Justice, was working towards the abolition of the death penalty by raising awareness by means of a range of activities for the public at large.

65. The case of Somchai Neelapaijit had come under investigation by the Department of Special Investigation starting in 2005, even though, under that Department's regulations, an investigation should be discontinued if the perpetrator had not been identified after a year. The investigation had been closed in September 2016, but could be reopened if a perpetrator was subsequently identified. Compensation in the amount of 80,000 baht had been awarded to Mr. Neelapaijit's family in 2009 under the Damages for the Injured Person and Compensation and Expense for the Accused in Criminal Cases Act, and a further 7.5 million baht had been approved by the Cabinet in September 2012. Mr. Neelapaijit's wife had been placed under the witness protection programme of the Department of Special Investigation. The courts had examined all the evidence from both sides without prejudice and in accordance with due process of law. The defendants had not been convicted of murder as there was no substantiated evidence to confirm Mr. Neelapaijit's death.

66. A special committee set up to investigate the case of Porlajee "Billy" Rakchongcharoen had found the evidence insufficient to bring criminal proceedings against the suspected person. An attempt had been made to transfer the case from the local investigating team to the Department of Special Investigation, but the Department had refused to accept it; it would, however, continue to assist with the search for Mr. Rakchongcharoen and the preliminary investigation. The Ministry of Justice was, nevertheless, coordinating with the police, and 13 witnesses were in a Ministry of Justice witness protection programme, while Mr. Rakchongcharoen's wife was protected, at her own request, by the Office of the National Commission on Anti-Corruption in the Public Sector.

The meeting rose at 6 p.m.