

Message and Suggestion from Ms. Tuenjai Deetes - Member of the National Human Rights Commission of Thailand (NHRCT)

Ms. Teunjai Deetes, Member of the National Human Rights Commission of Thailand (NHRCT) in capacities of Chairperson to the Sub-Committee on Rights and Legal Statuses of Persons, Ethnic Groups and Indigenous Peoples and to the Sub-Committee on Community Rights and Natural Resources, delivered her statement with dialogues on human rights concerns and recommendations for the rights of indigenous peoples in Thailand to the 16th United Nations Permanent Forum on Indigenous Issues (UNPFII), for two items as follows:

The comprehensive report presented in the UNPFII could be downloaded from :
www.mediafire.com/file/9692yww77ea82g8/NHRC_ThailandNationalFrameworkUNDRIPILO169_%5B22_APR_2017%5D_-Revised.pdf

Item 11 (28 April 2017)

Follow-up to the outcome document of the World Conference on Indigenous Peoples, focusing on the National Action Plan with indigenous peoples' participation

Due to the long borders of Thailand and its neighboring countries, the influx migrations have been found regularly with movements of people whom might then gradually mingle or merge with those living on border, including tribal and indigenous peoples. These cause problems of legal status and statelessness which somehow unavoidably affect to the accessibility and exercise to some basic rights, particularly to education and to health, while also derogate to the rights to land, natural resources management and possession, ancestral domain land and other.

In the matter of nationality law, from 1913 to 1972 everyone born in Thailand would automatically acquire Thai nationality *jus soli* or *jus sanguinis*. A Revolutionary Decree added additional requirements that children born after 13 December 1972 were not illegal entrants if their parents were both permanent residents (*jus soli*) or one was a Thai citizen (*jus sanguinis*).

In the matter of undocumented migration and vulnerable people, with 5,656 kms of land border and more than 90 entry points, large numbers of undocumented migrants entered while vulnerable people found residing in Thailand. The Government started using a 13 digit-unique identity number for citizens and residence from 1984.

And in the matter of land and natural resources laws, right to land and arable areas, including ancestral domain land, is still in trouble since majority are depending on conserved forest area, uncertain occupancy of land with/without title deeds and facing land grabbing from business competition.

And from the review of implementation of United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in Thailand, since 2007, the huge comfortable zone with self-identification and -name of ethnic groups has been made and enlarged with visibility and acceptance of cultural and social pluralism. There are recently more than 56 ethnic groups identified. They all are living in Thailand for generations and some even have been grounded with roots of indigenous communities, especially on border of Thailand or in remote areas.

- The legal status recognition with rights entitlement, amendments of nationality law, as: (i) 2008 Reforms to close gap created by the 1972 Revolutionary Decree for children born in Thailand before 1992; (ii) 2012 Amendment of the Nationality Act to grant nationality to Displaced Thais (Remedial for those losing nationality due to the state succession or transfer); and (iii) 2012 Ministerial Regulation entrusting approval of nationality applications to Provincial Governors (for provinces) and the Director of DOPA (for Bangkok) to approve the nationality application submitted;
- The elimination of statelessness with amendment of civil registration law, as: in 2008: Reforms to the Civil Registration Act 1991. Required birth registration and issuance of birth certificates to all children born in Thailand regardless of their nationality, legal status, illegal entry or if they were refugees or asylum seekers. Retrospective in effect. Included issuance

of individual identity numbers. Other measures to facilitate civil registration and the reduction of statelessness.

· The protection for undocumented/ irregular migrants, with exercise of immigration law as, regulating a process and criteria for any applying to be alien with legal entry under Article 17 of 1979 Immigration Act.

And recently, there are some actions in progress as: since the beginning of 2008 over 100,000 formerly stateless persons have been granted citizenship with accessible to right to health (2008) and right to work (2016). In March 2015, the Royal Thai Government requested all districts to identify and issue legal status to eligible stateless students in Thailand recorded in the Government's database. This directive should benefit up to more than 65,000 students. The Royal Thai Government adopted the goal of "zero statelessness" in Thailand, and became one of the leading members of the group of Friends of the # IBELONG Campaign to End Statelessness by 2024. In September 2016, registered stateless persons' freedom of movement outside of their Districts and within their Provinces facilitating access to services.

But for the natural resources, lands and community rights, there are plenty of challenges and irregularities indeed.

The NHRCT hereby would like to give recommendations to Thai Government as:

- Making clear definition of indigenous peoples in Thailand;
- Designating the clear and accountable focal point(s) in national level with ministerial cooperative approach for ensuring the law and policy coherence), with reviewing of existing laws and regulations for repeal or amendment including those in conflict or which are out-of-date;
 - Building/strengthening coalitions (Government, NGOs, Communities) to support the implementation of UNDRIP, ILO 169 (asking for ratify) and SDGs (M&E);
 - Making of the National Action Plan (NAP) with more focusing on indigenous peoples
 - empowerment and meaningful participation and networking with community-based organizations,
 - human rights responsive organizations, academicians and all relevant working units including the National Human Rights Commission of Thailand.

This NAP shall cover, for instance,

(i) rolling out online link between civil registry and the remaining 100 public/81 private hospitals to facilitate birth registration; (ii) finding solutions for indigenous elders to acquire nationality; (iii) raise awareness among parents, children and services providers on the importance of birth registration; and (iv) harmonization of birth registration in ASEAN.

