

## INTERVENTION

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Agenda Item 5 : Challenges and problems encountered in the practical implementation of the Declaration

Thank you Madame Chair.

My name is Kitprasert Nopparat. I represent the People's Empowerment Foundation, an NGO based in Bangkok, Thailand.

As stipulated in Article 1.1 of the UNDM, "*States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity*", we agree with the provision stated in Draft Recommendation no. 20 which states "*Governments have the primary responsibility for implementing the Declaration and other minority rights standards and instruments. States should recognize explicitly the diversity within their respective societies, including with respect to race, ethnicity, religion and language. States should demonstrate their commitment to the protection of minority rights by ensuring that minority issues are consistently integrated into and reflected in governmental policies and practice*"

However, we are deeply concerned with the challenges and problems encountered in Thailand's implementation of the Declaration, particularly in regard to discrimination toward and lack of protection of the rights of Malayu Muslim minority living in Southern Border Provinces.

Following a resurgence of violence in 2004 when an insurgent group robbed guns from a military camp in Naratiwat, the Royal Thai government declared Thailand's Southern Border Provinces of Pattani, Yala, Naratiwat, and some districts of Songkla under Martial Law and later issued two other special laws, namely the Emergency Decree on Public Administration in Emergency 2005 and the Internal Security Act 2008.

The Martial law gives the military supreme power over the civil authority operating in the region (Section 6)<sup>1</sup>. It also gives the military full power of search, compulsory requisition, prohibition, seizure, occupation, destruction or alteration of any place, and eviction (Section 8)<sup>2</sup>. Under the Emergency Decree, state officials have the authority to arrest and detain individuals without charge for up to 30 days by claiming national security (Section 12)<sup>3</sup>.

Since 2004, the conflict has claimed the lives of nearly 5,000 people and injured more than 9,000. The Malaya Muslim minority has overwhelmingly been targeted by the application of these special laws. Those who are charged under national security laws in Southern Border Provinces were "all" Malaya Muslims. Arbitrary detention, torture, and inhumane practices have continuously been reported. From January 2004 to October 2011, there were over 8,000 cases related to national security in the region. Only 16% of those detained were actually charged. The majority of cases were dismissed before reaching court. Of the cases that did reach court, almost 70% were dismissed<sup>4</sup>. One famous case was the case of Imam Yapa Kaseng, local religious leader who was detained in a military camp and brutally tortured to death<sup>5</sup>.

The Committee on the Elimination of Racial Discrimination (CERD) has expressed deep concern over the situation in Thailand's Southern Border Provinces, reflected strongly in their Concluding

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1 Martial Law, B.E. 2457 (1914); Section 6. Within the area under the Martial Law, the military authority shall have superior power over the civil authority in regard to military operation, desistence or suppression, or keeping public order. The civil authority shall act in compliance with the requirements of the military authority.

2 Martial Law, B.E. 2457 (1914); Section 8. Upon the proclamation of the Martial Law in any Tambol, Muang or Monthon, the military authority shall have full power of search, compulsory requisition, prohibition, seizure, staying in, destruction or alteration of any place and turning out of persons.

3 Emergency Decree on Public Administration in State of Emergency, B.E. 2548 (2005) ; Section 12.

(1) So as to arrest and restrain any suspect pursuant to the announcement under section 11 (1), the competent authority shall seek for the permission of the jurisdictional court or Criminal Court. Upon such approval, the competent authority may arrest and restrain the suspect for not more than seven days; required that the restraint must be held in a designated place not being a police station, detention chamber, prison or penal institution, and that the suspect may not be treated as an offender. In cases the restraint needs to be continued for the sake of the resolution of the state of emergency, the competent authority shall request the court for several successive extensions not exceeding seven days each; prescribed, however, that the total extended period of restraint may not be in excess of thirty days. If such time limit does expire but the restraint is still required, the Code of the Criminal Procedure shall then be proceeded with.

4 Isranews, "Information from Court...cases related to national security in 2011, dismissed 78.5%, punished less than 20%" , (27 January ,2012) available at [<http://www.isranews.org/south-news/stat-history/49-2009-11-17-18-22-35/5174-.html>]

5 Chaiwat Sata-anan, ed., *Imaginative Land* (Bangkok: Matichon Book, 2008), pp.206-7

Observations item no. 20 and 21<sup>6</sup>.

We therefore urge the Royal Thai Government to:

- (a) proactively implement recommendations made in this Forum, particularly on protection of minority rights as well as CERD's Concluding Observations in regard to Minorities;
- (b) take concrete measures to eradicate discriminatory practices based on racial profiling; and
- (c) review, if not repeal, the special laws with a view to meeting international human right standards.

We thank you Madame Chair

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<sup>6</sup> See CERD/C/THA/CO/1-3

