

THAILAND

CEDAW A/45/38 (1990)

214. The Committee considered the initial report of Thailand (CEDAW/C/5/Add.51) at its 156th, 157th and 160th meetings, on 24, 25 and 26 January 1990 (CEDAW/C/SR.156, 157 and 160).

215. The representative of Thailand introduced the report, noting the Government's commitment to the advancement of women both as a matter of human rights and as essential to development. She noted that since 1988 the national machinery for the advancement of women had been a permanent National Commission on Women's Affairs with a secretariat in the Prime Minister's Office headed by a Minister. Its function was to submit policies and plans for the advancement of women, provide support to other agencies and to recommend new legislation or revision of existing legislation to the Prime Minister.

216. A number of national policies had been developed to implement advancement of women, including the sixth five-year plan (1987 - 1991) and the 20-year long-term women's development plan (1982 - 2001) that was expected to affect the five-year plans. Priority had been given to women and development in rural areas and urban slums, increased women's participation at the local level, promotion of co-operation between the public and private sectors, improvement in the national machinery, and to the encouragement of women's organizations. In addition, there had been an effort to develop indicators of basic needs and the establishment of targets. A number of legal changes were in process, including the establishment of a special committee on the planning process to make proposals for the next development plan.

217. With regard to local laws and practices, the few laws that conflicted with the Convention were those covered by reservations. Many laws existed to implement the provisions of the Convention, some of which pre-dated it, including the Thai Constitution of 1978, which guaranteed equality between men and women, and a number of specific laws such as that providing universal primary education, as well as reforms of laws governing matrimonial property.

218. Regarding specific issues, it was noted that the situation of de facto discrimination was not good, reflecting past practices but indicating the need to go beyond merely legal measures. For that, both political will and resources were required. That was noticeable, for example, in wage differentials. A lower percentage of women candidates (2.7 per cent) were elected to the parliament than male candidates (10.7 per cent) in the most recent election, for a total of 2.8 per cent women in the lower house of Parliament. A better ratio of women to men was found among Thai nationals in international organizations. There was evidence of a breakdown in the family system because of the need of women to work in order to meet basic necessities and the pressures of the double burden of work and domestic responsibilities with a consequent toll for children. Finally, the AIDS problem affected several special groups in society, although the main vector for AIDS spread was sharing of needles.

219. Thailand had made a number of reservations leading to gaps in realization of the Convention, which should be understood in the national socio-cultural setting which could not be solved before the ratification of the Convention by the Parliament. On article 7 the reservation related to exclusion

of women from certain key military and administrative posts, especially the position of sub-district officer. The National Commission was working to reform part of the law by making the sub-district posts accessible to women. On article 9, the reservation was based on a fear that children of refugees and illegal immigrants born on Thai soil would benefit indiscriminately. There was some effort to make nationality pass bi-lineally. The reservation on article 10 was based on the fact that education in military institutions was restricted, although elsewhere equality had been achieved. Article 11, paragraph 1 (b), relating to the right to employment, had been reviewed and it was expected that the reservation would be withdrawn. The reservation on article 15, paragraph 3, was now in conflict with the law and would be withdrawn. The reservation on article 16 was based on existing laws and practices which fell short of the Convention, but were deep-seated and would require a step-by-step approach to modify. Finally, the reservation on article 29, paragraph 1, was the same as made by many States parties to international conventions.

220. For the future it was the intention of the Government to reduce some of the reservations to the Convention, deal with the issue of prostitution, including its decriminalization, take a preventive approach based on satisfying the basic needs of women and improve the legal basis for equality and to mainstream women's issues including the development and protection of the family system, for which the designation of 14 April as a national holiday to celebrate the family was one example.

221. The Committee indicated its concern over the number and extent of the reservations and, although the intention to keep them under review and begin removing some of them was welcome, the reservations could serve to nullify key aspects of the Convention. It was noted that although the Government had acceded to the Convention, it had not, in its own terms ratified it because that required all national laws to be put in line. Nevertheless, some experts emphasized that the government was internationally obliged under the Convention in accordance with article 27 and article 15 of the Vienna Convention on the Law of Treaties. The question was asked about the significance of that and how soon internal ratification would be completed. The fact that the 1978 Thai Constitution did not make explicit reference to equality between men and women was noted and it was asked whether that was likely to be changed.

222. The progress achieved between the submission of the initial report and its presentation was noted, especially in terms of developing a national implementation machinery, as was the intention of the Government to use the Convention as a vehicle to promote change. More information was requested about the relationship between the long-term women's plan and the successive five-year plans. It was asked whether the Convention had been given publicity in the country and whether it had been translated into the Thai language and the role of women's organizations in seeking its implementation. It was noted that one reservation referred to national security laws, and the question was asked whether there were instances of "prisoners of conscience" and whether any of them were women. As another reservation was said to have been based on a concern about the nationality of refugees and migrants, information on the situation of refugee women in Thailand was requested.

223. Concerning the national machinery, it was noted that only two women's organizations were members of the National Women's Commission and the criteria for choosing them was requested as well as the criteria used to select the other 15 members appointed by the Prime Minister. Information was requested on the size of the budgets given to the Commission, its committees and

its secretariat. The fact that improved statistical data would be coming from the work of the committee on the co-ordination of data was noted and further information was requested.

224. Concerning article 2, information on the main obstacles to putting the Convention into effect in domestic laws was requested as well as a further indication of those laws considered to be inconsistent with the Convention. It was noted that the age of consent for defining sexual aggression as a crime had been raised from 13 to 15, and the question was asked whether it was felt that raising the age would help protect women, whether sexual aggression against girls older than 15 was considered to be violence and whether there were policies to deal with it. As it was further noted that laws discriminating against the appointment of women into the judiciary had been repealed, the number of women who had become judges and public prosecutors was requested.

225. Regarding article 3, it was noted that in the 20-year plan a target of 30 per cent participation in leadership was set, and information was sought as to whether that was contradictory to the reservation on article 7, as well as whether there had been an evaluation of progress in implementation of the sixth five-year plan. Results of new legislation in reducing infant mortality and maternal health was requested as well as information about what was being done in that area.

226. Information on whether there were programmes to train teachers in human rights or other courses on human rights was requested in the context of article 5, together with information on the effects of and reaction to the seminars noted in the report.

227. With regard to article 6, the reform of the 1960 Act on the Suppression of Prostitution was noted and information or statistics on the incidence of prostitution was requested as well as indications of the relationship of poverty to prostitution, the extent to which prostitution catered to Thai men or foreigners (in the context of "sex tourism"), the flow of Thai women to Europe for that purpose and the policies and recent actions of the Government on that question.

228. It was noted, with regard to article 7, that there were relatively fewer women candidates elected than male candidates; the reasons for that were requested as well as the basis on which members of the upper house of the Parliament were appointed and whether the Government or political parties intended to establish quotas. The extent to which women in Parliament supported the national machinery was asked as well as whether support was received from male parliamentarians. Concerning the public service, the nature of the work of sub-district officers was asked in terms of why it had been considered in the past that women could not qualify for those posts. The extent to which women's organizations supported the legal reform effort was requested as well as whether women's organizations had the same priorities as the Government and if not, the nature of differences.

229. More detailed information was requested on the implementation of article 8.

230. Regarding article 10, it was asked whether textbooks used in schools showed the role of modern women, as opposed to traditional roles. As it was noted that the reservation on the article was based on access to certain military institutions, it was asked whether the reservation was not inconsistent with article 35 of the 1978 Constitution and whether it was significant enough to justify a reservation on the article as a whole. It was further noted that there was a lack of equality in

access to vocational education, and information was requested on the views and attitudes of women on the question and on the views and attitudes of teachers.

231. Regarding article 11, the fields in which women's employment had been concentrated was requested along with information on whether those areas were female-dominated. Information was requested on the extent to which action was being taken to deal with the problems mentioned in the five-year plan as well as with the obstacles noted in the report under items (c) through (f).

232. In terms of family planning in connection with article 12, information was requested on measures taken with regard to family planning, especially the two-child policy and on whether, rather than considering it as a woman's responsibility, steps were being taken to encourage men in family planning. A question was asked about how abortion was treated.

233. Concerning article 13, the absence of any description of problems relating to equality in bank lending was noted and it was asked whether that meant that there were no problems in that area, as well as the meaning of the statement in the report that "the family nexus acts as a form of social security".

234. On rural women, as specified in article 14, and in view of the predominance of women in the agricultural labour force, information was requested on land acquisition and inheritance practices as they affected women and the measures taken to improve women's position in that respect, as well as information on what was known about households headed by women in the rural areas.

235. Regarding article 15, the fundamental nature of the reservation in terms of the implementation of the article was noted.

236. The complete reservation on article 16 was noted, and the question was asked whether women's movement were active in seeking to modify the civil code to bring it into line with the Convention, whether dowry practices still existed and the extent to which women were able to take action in the case of bigamy.

237. The representative of Thailand, in replying to questions raised, stated that traditional attitudes continued to impede elimination of de facto discrimination, much of which was a legacy of the past when equal opportunities did not exist, for example, in education. The Government, however, was committed to equality in both formal and non-formal education. She stated that the National Commission on Women's Affairs consisted of representatives of key government departments, representatives of two umbrella non-governmental organizations and individual experts drawn from both the governmental and non-governmental sectors. The Commission now gave priority to preparation of the next development plan and linking it with the 20-year long-term women's development plan. Concerning the Parliament, it was noted that whereas the lower house was elected, the upper house was appointed largely from high-ranking civil servants or the military, in which there were few women. For the lower house, a traditional attitude that women should not participate in politics had affected the number of women (10 of the 357 members), although all parties now welcome female candidates. The women's plan contained targets for more women in legislative bodies but no quotas had been set. The women parliamentarians came from four parties and were enthusiastic about supporting women's development. Finally, the establishment of a

national family day was considered a positive step.

238. In terms of the question about the status of the Convention, it was stated that Thailand had acceded to the Convention but had not ratified it, in terms of Thai domestic law, since that would have required approval by Parliament and adjustment of all domestic laws. For that reason, the Government had taken a cautious approach to the Convention and had entered reservations wherever the Convention had seemed to differ from domestic law or practice. It was necessary to convince people about the necessity to adjust law to the Convention and it was hoped that the views of the Committee would help do so. It was noted that the Convention was one of the few human rights instruments to which Thailand had acceded. Each reservation had its basis: article 7 because of certain reserved occupations, article 9 because in Thai law and practice nationality was passed on through the father; article 11, paragraph 1 (b), because of the law prohibiting night work, article 15, paragraph 3, because the law had been ambiguous, article 16 because the law did not meet the requirement of the Convention and article 29, paragraph 1, because of a sovereign State's right to decide who adjudicated disputes. However, it was likely that the reservations on articles 11 and 15 would be withdrawn in the light of domestic legislative changes.

239. On article 1, the definition of the word "discrimination" was still unclear in Thai law, as Thailand had no sex discrimination act to provide such a definition, although if it involved a violation of rights, the civil and political codes could be used to protect basic rights. Development of such a law was on the agenda for the future.

240. Concerning article 2, the 1974 Constitution had stipulated equality between men and women while the 1978 Constitution mentioned equality between persons, but was being interpreted broadly. It would be difficult to amend the Constitution to make the stipulation more explicit. In Thai practice, unlike in other countries, the Constitution did not confer rights directly, as they had to be seen in the light of an implementing law. The concept of national security was part of all rights and there was a question of how best to achieve a balance between national security and international human rights standards, a point which the Committee might wish to take up more generally.

241. Regarding article 3, the distinction between the five-year plans and the 20-year women's plan was that the five-year plans were general in approach and, although the fifth five-year plan (1982-1986) had had a specific section on women, the sixth plan had decided to maintain the issue of advancement of women as a transverse theme throughout the plan. The 20-year plan included numerical targets, many of which were now being included in the five-year plans. In terms of the amount of resources for women's activities, it was noted that the budget was organized by ministry rather than subject-matter and therefore no clear estimate was possible. It was stated that in regard to the work of government and non-governmental organizations, men as well as women were involved. Concerning some key statistics, it was noted that of 1,160 judges, 10 per cent were women and of 1,400 prosecutors, 6.9 per cent were women. Of heads of household, in 1986 some 19.2 per cent were women. Infant mortality had declined from 51.9 per 1,000 in 1979 to 41.3 per 1,000 in 1984. The literacy rate was 97 per cent, but 88.3 per cent of women had had only primary education. Participation in the labour force consisted of 75 per cent of men, 51 per cent of women, the largest portion in each case working in agriculture.

242. In terms of article 5, it was noted that efforts had been made to disseminate the Convention using seminars and mass media, but that had reached mostly the urban areas. To reach the rural areas, other techniques were required, including translating the provisions of the Convention into ideas understandable to the average woman, incorporation of legal education into other training and development of programmes as a follow-up to training.

243. Concerning article 6, prostitution was illegal and in the informal sector and accordingly there were no official statistics. It was related to poverty and therefore combating it required dealing with the root causes of rural-urban and international migration. It was also necessary to distinguish between forced and voluntary prostitution and to have measures appropriate to each. Laws were difficult to enforce, did not affect the consumer and the Government was more favourable to a social approach emphasizing rehabilitation measures. With regard to the connection between prostitution and tourism, government policy did not support the connection, but there was a need to convince the private sector. It was also noted that there was a conception of the problem on the part of some countries and that had led to the unfair treatment of Thai women seeking visas or crossing borders and that called for a more balanced approach by other countries.

244. Regarding article 7, the government structure built up from the village level, the sub-district, the district and then central. Before 1982 women were not allowed to be village or sub-district chiefs but there were now a small number. Women were still prohibited from being sub-district officers but the National Commission on Women's Affairs was reappraising that policy and there were signs of change in the works.

245. Regarding article 10 on education, the same opportunities existed for men and women in education and anomalies only existed in some institutions reflecting stereotypes, although the Ministry of Education was making efforts to change them. There was a need to broaden non-formal education and the commitment of the Government was reflected in the fact that a world education conference would be held in Thailand in March 1990. Sex education programmes existed and the rise of AIDS had helped develop interest in it. Human rights education was available at the university level, including women's rights, and was integrated into primary and secondary level teaching, although there was a tendency to emphasize duties rather than rights. Women's studies programmes were provided at the university level.

246. On article 11, there were differences between law and practice in equal employment. Social security was provided to a limited extent in cases primarily connected with occupation-related disability. It was expected that the extended family system would provide social security, although it was noted that that system was breaking down in some respects. The problem rested in the relative roles of the family and the State as the cost involved was already too high for the State to assume more responsibility. There were some efforts to increase the availability of paid maternity and paternal leave, but that in large measure would depend on the individual enterprises themselves.

247. In relation to article 12, family planning existed but there were still some attitudes that tended to place the responsibility for contraception exclusively on women, attitudes that were being combated through education. Abortion was illegal except for threats to the woman's health or when pregnancy was a consequence of sexual assault. There had been proposals by non-governmental organizations to broaden the law to cover potential foetal deformity, economic and social factors and

failure of contraception, but there were differences of opinion on that among different groups. In regard to violence, the law was clear that rape was a criminal offence. In the 1987 law reform, the legal age of consent, for the purpose of culpability, had been raised to 15.

248. On articles 13 and 15, women had equal contractual status with men, including the grant of bank loans. Some governmental agencies and non-governmental organizations were providing loans specifically to women's groups to foster women's small-scale enterprises, although credit was still not sufficiently accessible. There was still a need to reach the private sector for that.

249. Concerning article 16, the law did not favour bigamy, but it was vague. The sole legal penalty was a minor penalty for perjury when a person tried to register a bigamous marriage. There had been efforts to change the law, but that had not passed, having been defeated by a small margin.

250. In general, on refugee women, it was explained that Thailand had not acceded to the International Refugee Convention and the issue concerned asylum-seekers, about 60 per cent of whom were women and children, largely Indochinese. Under the law, asylum-seekers were considered to be illegal immigrants with duties rather than rights. Policy, however, was to bend the law for humanitarian considerations, with emphasis on screening, under the rule of first asylum. Those found to be legitimate refugees were allowed to stay temporarily while awaiting third-country placement, and were not repatriated. The issue was both sensitive and complex.

251. Several members expressed concern about the view expressed by the representative of the Government concerning the relationship between the concept of national security and the rights of women.

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213. The Committee considered the combined second and third periodic reports of Thailand (CEDAW/C/THA/2-3) at its 417th and 418th meetings, on 29 January 1999 (see CEDAW/C/SR.417 and 418).

(a) Introduction by the State party

214. In her opening statement, a representative of the Government of Thailand noted that at the time of its accession to the Convention on the Elimination of All Forms of Discrimination against Women in 1985, Thailand had made seven reservations, five of which had been withdrawn by 1995. The representative indicated that efforts had been made to amend laws to allow for the withdrawal of the reservation to article 16 of the Convention, which deals with family life and marriage. However, several laws relating to family life discriminated against women, and traditional attitudes impeded attempts to amend those laws.

215. The representative noted that anti-discrimination legislation had been proposed but rejected by Thailand's legislators because the Constitution, promulgated in 1998, already stipulated equality between women and men and prohibited discrimination on the basis of sex. Other laws also included the principle of gender equality.

216. The representative drew attention to the National Commission on Human Rights, an independent body that could receive information on violations of human rights. It could also recommend the amendment of laws and make proposals for other remedial measures. She indicated that the 20-Year Perspective Policy and Plan for Women (1992- 2011) and the Beijing Platform for Action had formed the basis of the five-year development plan for women, which was part of the eighth national, social and economic development plan. The National Commission for Women's Affairs (NCWA), established in 1989, had resulted from the five-year development plan, and among its goals was the promotion of the advancement of women and the creation of gender awareness. The Commission was also responsible for monitoring and evaluating programmes for women and initiating gender-sensitive research.

217. The representative indicated that the Beijing Platform for Action had been translated into Thai and that five regional meetings had been organized by the Government to make the public aware of its terms, particularly in regard to violence against women and the girl child and trafficking in women and children.

218. The representative acknowledged that stereotyping of women and men still existed in Thai society, but there was growing awareness of the impact of gender stereotypes. NCWA had conducted a research project with regard to stereotypes in textbooks, and the Ministry of Education was revising textbooks. There had been increasing enrolment of women in traditionally male-dominated fields. The media had also begun to address stereotypes in programmes that presented women's views and gender perspectives, but the mass media in Thailand sometimes portrayed women and girls in accordance with traditional stereotypes.

219. The representative noted that since the submission of the previous report, significant efforts

had been made to address the sexual exploitation of and trafficking in women and children. New legislation had been introduced, and NCWA was currently formulating a national plan of action for trafficking of women and children. Domestic violence against women and children had also been the focus of government activity, while comprehensive measures to prevent child labour had also been introduced.

220. The representative noted that, although there had been some progress in that regard, the participation of women in political and public life remained low. She noted that women usually entered traditional occupations and bore primary responsibility for family obligations.

221. The representative indicated that the 1998 labour protection code provided for gender equality in employment and prohibited sexual harassment. NCWA, in collaboration with the Ministry of Labour and Social Welfare, would establish a system to monitor that legislation so that it could be enforced effectively.

(b) Concluding comments of the Committee

Introduction

222. The Committee expresses its appreciation to the Government of Thailand for its candid and comprehensive report, a supplementary report, as well as the additional information and written responses to the numerous questions put forward by the pre-session working group, as well as the clear responses provided in the oral presentation made by the representative of Thailand. The Committee also notes that the interactive nature of the country's presentation was useful for the purpose of sustaining a constructive dialogue with its members.

223. The Committee commends the Government for withdrawing five reservations to the Convention, and encourages it to continue its effort to withdraw the two remaining reservations. It particularly commends efforts to withdraw the reservation to article 16 relating to family life and marriage.

Positive aspects

224. The Committee commends the efforts undertaken by NCWA, in particular in formulating new laws and research-based policy recommendations. The Committee notes the cooperation with NCWA and non-governmental organizations in that regard.

225. The Committee is pleased to note that the Convention and the Beijing Platform for Action have had a visible impact on the policies and laws of Thailand and in the realization of gender equality in the country. The Committee welcomes the new Constitution, which guarantees equality between women and men and includes provisions to promote the equal employment of women and men.

226. The Committee welcomes legislative measures on trafficking, prostitution, nationality, employment and child labour introduced from 1992 to 1998, as well as the compulsory education policies that have been adopted, which indicate that the Government of Thailand has made serious efforts to integrate the standards of the Convention into domestic laws and policies.

Factors and difficulties affecting the implementation of the Convention

227. The Committee notes that the recent financial crisis has been affecting the country's economic and social development and is an impediment to the implementation of the Convention.

228. The Committee is concerned that traditional attitudes that foster discrimination against women and girls continue to prevail and to hinder the full implementation of the Convention.

229. The Committee is concerned with the continued existence of Thailand's reservation to article 16 of the Convention which relates to marriage and family life.

Principal areas of concern and recommendations

230. The Committee expresses its concern at the lack of effective law enforcement mechanisms and the lack of cases filed by women in the courts on the basis of constitutional guarantees. The Committee urges NCWA to study constitutional developments in other countries and practical ways of strengthening the capacity of women to use the Constitution to ensure gender equality.

231. The Committee remains concerned that the Convention is not directly applicable in the courts in Thailand and that there is no separate law exclusively dealing with discrimination against women. The absence of a definition of discrimination congruent with the Convention in the Constitution is also of serious concern.

232. The Committee recommends the introduction of specific anti-discrimination legislation in compliance with article 1 of the Convention.

233. Noting the prevailing traditional attitudes affecting the advancement of Thai women, the Committee recommends that sensitization programmes for policy makers, administrators, legal personnel and other professionals involved in the health and education sector be provided. The Committee recommends that school textbooks be revised to eliminate stereotyped images of women and girls and to include women's human rights issues.

234. The Committee is concerned about the under-representation of women in politics and decision-making structures, including the judicial system. It emphasizes the importance of fostering a political and social environment conducive to women's promotion in all sectors of public and private life. The Committee recommends the introduction of affirmative action policies or temporary special measures in accordance with article 4, paragraph 1, of the Convention, with goals and timetables to address the situation.

235. Recognizing that the Government has successfully raised the legal employment age from 12 to 15 years by extending compulsory education from 6 to 9 years, the Committee continues to be concerned about the early drop-out of girls from school and their early entry into the labour force. The Committee takes note of the proposal to introduce a children's rights law and recommends that the Government ensure that its provisions conform with the Convention on the Elimination of All Forms of Discrimination against Women and the relevant provisions of the Convention on the Rights of the Child.

236. The Committee expresses its concern about the status of women migrant workers. In particular, the Committee is concerned about cross-border trafficking in women and girls, forced prostitution and the commercial sex industry.

237. The Committee strongly recommends that the Government consider the issue of migration and commercial sex work as a critical human rights issue.

238. The Committee recommends that the Government explore the possibility of cooperation with other countries and coordination with non-governmental organizations when introducing measures to address the issue.

239. The Committee expresses concern about hill-tribe women and girls, whose rights may not be effectively protected by national laws.

240. The Committee recommends the introduction of legislation and other measures to protect effectively the rights of hill-tribe women and girls.

241. The Committee expresses its concern at the high suicide rate, as well as the prevalence of mental illness, among women.

242. The Committee recommends that the Government conduct research into these matters and include information on them in the next report.

243. Recognizing that sexual harassment, rape, domestic violence and marital rape, whether in the family, the community or the workplace, constitute violations of women's right to personal security and bodily integrity, the Committee urges the Government of Thailand to amend the penal code in the light of the Declaration on the Elimination of Violence against Women and general recommendation 19 of the Committee.

244. The Committee is concerned that traditional stereotypes of women and men are reflected in some laws and portrayed in school text books and through the media, thereby undermining positive policies relating to gender equality.

245. The Committee urges that a review be made of laws and policies and school text books in order to remove gender stereotypes. It also recommends that the media be encouraged to portray girls and women in non-stereotyped ways.

246. The Committee encourages the Government to give full attention to the needs of rural women and to ensure that they benefit from policies and programmes in all areas, in particular access to decision-making, health, education and social services.

247. The Committee is concerned that the current Name Law and other laws operate so as to restrict women's access to credit and land ownership when they marry foreigners.

248. The Committee strongly recommends the timely introduction of the proposed amended Names Act and the Nationality Law.

249. The Committee requests the Government of Thailand to provide information addressing the concerns raised in the present concluding comments in its next periodic report required under article 18 of the Convention.

250. The Committee requests the wide dissemination in Thailand of the present concluding comments in order to make the people of Thailand, and in particular government administrators and politicians, aware of the steps that have been taken to ensure *de jure* and de facto equality for women and the further steps that are required in that regard. It also requests the Government to continue to disseminate widely, and in particular to women's and human rights organizations, the Convention, the Committee's general recommendations and the Beijing Declaration and Platform for Action.