



1. Introduction

- 1.1 In this submission, IWNT and Manushya Foundation examine the compliance of the Thai government with the recommendations received during the 2nd UPR cycle of Thailand, particularly in relation to the protection of indigenous women's rights. In this context, we analyse the efforts made by the government to implement recommendations received related to compliance of domestic legislation with international human rights standards, protection of the rights of vulnerable groups, and prevention of discrimination and violence against children, youth, and women. The authors then draw specific, measurable and result-oriented recommendations to address to ensure that the rights of indigenous women's rights in Thailand are respected and upheld.
- 1.2 During the 2nd UPR cycle, the Thai government did not receive any recommendation directly addressing indigenous women. However, it received 48 recommendations related to their rights. Of these recommendations 46 were supported and 2 were noted. Our assessment demonstrates that the Thai government persistently failed to implement all recommendations since its last UPR.
- 1.3 We are deeply concerned with the Thai government's disregard for indigenous women's rights. While the Thai government has ratified some core international human rights treaties applicable to indigenous women's rights, including the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), it has failed to ratify ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), despite voting in favor of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
- 1.4 This submission indicates that indigenous women in Thailand face severe challenges in accessing their human rights in the following manner:
- Section 2 discusses the failure to ratify ILO No. 169 and legal gaps in domestic legislation, which results in limited protection of indigenous women's rights.
 - Section 3 examines the challenges indigenous women face in accessing citizenship.
 - Section 4 discusses the discrimination against indigenous women.
 - Section 5 discusses the exclusion of indigenous women from participation in the public sphere.
 - Section 6 examines the vulnerability of indigenous women to human trafficking and domestic violence.



- Section 7 discusses the challenges indigenous women face in accessing healthcare services.
- Section 8 discusses the challenges indigenous women face in accessing education.
- Section 9 examines the violation of indigenous women’s land and resource rights and their evictions from ancestral lands.
- Section 10 examines the negative impact of tourism on indigenous women.
- Section 11 discusses the inability of indigenous women to access justice and effective remedies and thereby secure protection of their rights.
- Section 12 includes recommendations to the Thai government, addressing the challenges and rights violations discussed in foregoing sections.

2. Failure to ratify ILO No. 169 and legal gaps in domestic legislation results in limited protection of indigenous women’s rights

- 2.1 During the 2nd UPR cycle, the Thai government only noted but did not implement the recommendation to ratify the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). While the Thai government did not receive any recommendation specifically addressing the adoption of legislation protecting indigenous women’s rights, it received two recommendations regarding the protection and promotion of key human rights principles in the new constitution, which it supported, but only partially implemented.
- 2.2 Between November 2014 and March 2016, the Network of Indigenous Peoples of Thailand (NIPT) lobbied for official recognition of indigenous peoples in constitutional drafts. Even though the first constitutional draft released to the public in April 2015 officially recognized indigenous peoples, the military-appointed National Reform Council (NRC) rejected the first draft. The second and final constitutional draft ratified in August 2016 did not include any references to indigenous peoples.¹
- 2.3 The Constitution of 2017 does not explicitly recognize indigenous peoples in Thailand.² Even though the Constitution of 2017 requires the State “to promote and provide for different ethnic groups to have the right to live in the society according to traditional culture, custom, and ways of life on a voluntary basis, peacefully and without interference,” ambiguous restrictions, such as public order and State security, are placed on the State’s duty.³
- 2.4 At the same time, the Constitution of 2017 did away with the provisions of earlier constitutions for the rights of persons assembling as a traditional community to



conserve or restore their customs, local knowledge, arts or good culture of their community and of the nation and to participate in the management, maintenance, preservation and exploitation of natural resources and the environment.⁴ As these rights are no longer guaranteed, indigenous peoples are guaranteed less constitutional protection against discrimination.⁵

- 2.5 While the Constitution of 2017 affirms the rights of communities to be informed and have access to public information and the State’s duty to undertake environment and health impact assessment through public hearings of communities in advance of any undertaking that might affect them and lays down the requirements for permitting such undertaking,⁶ the provisions fall short of international standards for indigenous peoples’ rights.⁷
- 2.6 No domestic legislation recognizes and protects indigenous women’s rights. In July 2020, General Prayut Chan-o-cha, Prime Minister, signed the Announcement of the Prime Minister's Office Re: Appointment of 13 National Reform Committees (No. 2) to implement concrete national reform plans, including the enactment of the Act on the Protection and Promotion of the Way of Life of Ethnic Groups. The Princess Maha Chakri Sirindhorn Anthropology Centre (SAC), an academic institution under the Ministry of Culture,⁸ is responsible for preparing the draft Act. The Thai government expects the Act to be legally effective in 2022.⁹
- 2.7 The draft Act comprises of five sections: (1) Principles of Protection of the Way of Life of Ethnic Groups; (2) Mechanisms for the Protection and Promotion of the Way of Life of Ethnic Groups; (3) Mechanisms for the Creation of Processes for Participation of Ethnic Groups; (4) Preparation of Information on the Way of Life and History of Ethnic Groups; and (5) Determination of Ethnic Group Protection Areas.¹⁰
- 2.8 The Thai government reported that, as of July 2020, a total of 10 meetings have been organized for ethnic groups to provide their opinions on the draft Act, with consideration of academic issues relating to the definition of the term “ethnic groups” and policy issues relating to the security of natural resources and the environment.¹¹ While the draft Act is at the stage of public hearings to be conducted in provinces where indigenous peoples are situated until the end of April 2021, indigenous women groups have raised concerns over the public hearing process. Because of the short period for public hearings, as well as the fact that their communities are dominated by men, indigenous women are concerned that issues specific to them will be excluded from the draft Act. There is a general consensus within IWNT that there should be separate public hearings conducted for indigenous women in different regions of Thailand.¹²

3. Indigenous women face challenges accessing citizenship

- 3.1 The Thai government did not receive any recommendation specifically addressing the challenges of indigenous women in accessing citizenship during the 2nd UPR cycle. However, the Thai government received two recommendations regarding



birth registration, which it supported but failed to implement.

- 3.2 According to Plan International, a non-governmental organisation (NGO), more than one million people in Thailand could be stateless, most of them belonging to indigenous groups. At least 50% of them have a legitimate claim for citizenship, but many lack relevant paperwork and proof of their eligibility is thus complicated to obtain. Citizenship is guided by the Nationality Act of 2008. The system and procedure to apply are complicated and lengthy, which is worsened by corruption among local officers and their discrimination, prejudicial stereotypes, and biases against indigenous peoples: indigenous peoples have been requested to pay illegal fees in order to start citizenship procedures and have been threatened with arrest. While indigenous peoples could prove through DNA tests that they are related to Thai citizens and are eligible for Thai citizenship, these tests are unaffordable for indigenous peoples. Indigenous peoples also face challenges registering themselves due to inadequate state services, such as a lack of roads from remote areas to registration offices. In particular, indigenous women are unable to travel by themselves and are reliant on others to accompany them. Another concern is the lack of sufficient information about the necessity and benefits of citizenship provided, resulting in many indigenous peoples being unaware of their right to obtain citizenship.¹³
- 3.3 Denial of citizenship restricts indigenous peoples' enjoyment of all other human rights and fundamental freedoms and increases their risks and vulnerabilities of exploitation and discrimination. Due to the lack of their legal status, indigenous peoples are unable to access public services, such as healthcare and education. They cannot access employment, own land, or move around freely, and they are unable to access remedies when their rights are being violated.¹⁴
- 3.4 In particular, indigenous women do not have equal access to nationality as men. In 2017, the Committee on Discrimination Against Women (CEDAW) expressed its concerns that, among indigenous peoples, men are reportedly given priority to register for nationality, leaving a disproportionate number of indigenous women without nationality.¹⁵

4. Indigenous women face racial discrimination

- 4.1 During the 2nd UPR cycle, the Thai government received a recommendation to withdraw its interpretative declaration on ICERD and its reservation to Article 4, which it supported and implemented. Article 4 of ICERD requires states to condemn all propaganda and organizations that promote racial hatred and discrimination.¹⁶ Despite withdrawing its reservation to Article 4 in 2016, the Thai government has made no efforts to tackle hate speech against indigenous peoples and instead contributes to disseminating negative stereotypes about them.¹⁷
- 4.2 Indigenous peoples often live in and adjacent to reserved forest areas and national parks and are reliant on natural resources. While indigenous peoples make a



livelihood in forest areas and greatly contribute to forest conservation, the Thai government and people often blame them for destroying forest areas.¹⁸

- 4.3 The widespread misconception that indigenous peoples are engaged in drug trade and pose a threat to national security also contributes to discrimination against them.¹⁹ Discrimination taking place at the highest levels of the government ultimately impacts the process of formulation of laws, programs, and policies that affect indigenous peoples.²⁰
- 4.4 While the Thai government did not receive any recommendation specifically addressing discrimination against indigenous women during the 2nd UPR cycle, it received five recommendations relating to discrimination, of which four were supported. The Thai government noted the recommendation to adopt a comprehensive anti-discrimination law. None of the recommendations have been implemented.
- 4.5 Under the Constitution of 2017, equality and non-discrimination are guaranteed.²¹ However, to date, the Thai government has not enacted any legislation eliminating discrimination against all persons. The Thai government has only enacted the Gender Equality Act of 2015, which only applies to women. The Act still poses many challenges and fails to provide genuine safeguards to ensure gender equality. For example, Section 17 paragraph 2 of the Act allows gender-based discrimination on the basis of religion, national security or safety.²² In 2017, CEDAW expressed its concerns with the exceptions contained in Section 17 paragraph 2 of the Gender Equality Act of 2015.²³
- 4.6 Even though the Thai government supported the recommendation to effectively implement the Gender Equality Act of 2015, gender-based discrimination against indigenous women remains common, which is often due to gender-blind policies or programs.²⁴
- 4.7 Accordingly, indigenous women suffer from multiple layers and forms of discrimination on the grounds of indigeneity and gender, within their communities and mainstream Thai society.²⁵ Within their communities, men are primarily considered as the head of the households in indigenous communities with patriarchal beliefs. Men also hold access and control to private and collective property and resources.²⁶
- 4.8 By belonging to more than one category, indigenous women living with HIV face repeated discrimination in all facets of their life,²⁷ whether it is diagnosing and living with HIV, even in accessing healthcare,²⁸ or in their daily social circumstances²⁹ and their economic condition.³⁰

5. Indigenous women are continually excluded from participation in the public sphere



- 5.1 During the 2nd UPR cycle, the Thai government did not receive any recommendation specifically addressing the exclusion of indigenous women from participation in the public sphere. However, the Thai government received four recommendations regarding the participation of women in the public sphere, which it supported but failed to implement.
- 5.2 There is a lack of participation and representation of indigenous women in matters affecting them.³¹ The roles women are expected to play provide them with little, if any, space for autonomy, decision-making or participation in the public sphere,³² resulting in severe inequalities for indigenous women in access to health and education.³³
- 5.3 In particular, indigenous women have been continually excluded from participation in national development plans, including climate change adaptation and mitigation strategies, despite their unique experiences and invaluable contributions.³⁴ In recent years, the Thai government has also imposed policies that have negative impacts on the well-being of indigenous communities, including the zoning of national parks and world heritage sites over indigenous territories, overlooking indigenous women and failing to acknowledge their indigeneity and the intersectional discrimination that they experience.³⁵
- 5.4 In 2017, CEDAW also expressed its concerns about the lack of representation of indigenous women in decision-making positions.³⁶

6. Indigenous women are vulnerable to human trafficking and domestic violence

- 6.1 During the 2nd UPR cycle, the Thai government did not receive any recommendation specifically addressing the issue of violence against indigenous women. However, the Thai government received fourteen recommendations calling upon it to combat human trafficking, which it supported but only partially implemented.
- 6.2 Despite the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons in 2013³⁷ and increased efforts undertaken by the Thai government to combat human trafficking,³⁸ including identifying more victims,³⁹ human trafficking remains a persistent issue afflicting indigenous women. Even though the Thai government enhanced its awareness-raising efforts, they have not reached indigenous peoples in remote areas who remain unaware of trafficking and how to prevent it from happening.⁴⁰ Overall, there is an overwhelming perception that government communication around trafficking and the associated policies to combat it were not adequately shared at the community level.⁴¹
- 6.3 Indigenous women are disproportionately victims of human trafficking. Being denied citizenship, facing land evictions, having limited access to education, and lacking access to justice and effective remedies, indigenous women often fall victim to trafficking.⁴² UNESCO has confirmed that lacking citizenship is one of the main risk factors for falling victim to trafficking.⁴³



- 6.4 Indigenous women are regularly trafficked to work in spa and massage parlours abroad. Indigenous women who migrate informally across Thailand's borders and enter into sex work are subject to discrimination on the basis of their ethnic status and denied basic rights, including access to healthcare and education.⁴⁴ The lack of citizenship of indigenous women exacerbates their vulnerability and their gender makes them prone to sexual violence.⁴⁵ Due to their lack of legal status, indigenous women are less likely to report trafficking cases.⁴⁶
- 6.5 Survivors of sex trafficking often face stigma upon return from being trafficked, a factor which further impedes indigenous women's empowerment in their communities. Those who reintegrate often have "reduced" chances of finding work and the victimization affects the entire family.⁴⁷
- 6.6 During the 2nd UPR cycle, the Thai government received five recommendations calling upon it to combat violence against women, which it supported but failed to implement.
- 6.7 High rates of domestic violence and violence against women exist in some indigenous communities.⁴⁸ With limited access to education, lack of citizenship and dwindling natural resources, indigenous women in Thailand are forced out of their traditional roles of homemakers and domestic carers into low-skilled, low-salaried, and insecure jobs. As indigenous women become more economically dependent on their male counterparts, indigenous women are made further vulnerable to violence.⁴⁹ In particular, during the COVID-19 lockdown, it is believed that the situation worsened, with an increase in domestic violence, a decrease in reporting of abuse, and poor access of services for domestic violence survivors with difficulty in visiting hospitals for physical and psychological treatment as well as the collection of evidence with respect to the abuse.⁵⁰

7. Indigenous women face challenges in accessing healthcare services

- 7.1 During the 2nd UPR cycle, the Thai government did not receive any recommendation specifically addressing the challenges of indigenous women in accessing healthcare services. However, the Thai government received ten recommendations relating to access to healthcare services, which it supported but failed to implement.
- 7.2 Generally, indigenous peoples in Thailand face geographic and socio-economic challenges in accessing healthcare services. Issues regarding their access to healthcare services include: (1) health insurance eligibility linked to citizenship that results in incomplete coverage or absence of coverage; and (2) they are living in remote areas, where the government has poorly invested in healthcare services and they experience difficulties in going to health facilities.⁵¹
- 7.3 A recent ethnographic study among indigenous women in northern rural Thailand has shown that persistent inequities in health and access to healthcare services for



indigenous women in Thailand remain a significant challenge.⁵² Inequities in healthcare lead to greater negative health consequences for indigenous women in Thailand. For example, many of the women affected by preventable diseases, such as cervical cancer and HIV/AIDS, are indigenous.⁵³

- 7.4 At the same time, when indigenous women are able to access healthcare services, indigenous women suffer from a lack of information and understanding on the healthcare services available, which could also be due to language barriers.⁵⁴ Language barriers also result in difficulties in explaining their health problems and understanding the instructions or information at health facilities. In most hospitals, nobody can speak indigenous languages and information is provided in Thai. Their health situation is worsened because of misunderstandings in explaining their problems and the medical personnel not being able to provide the proper treatment.⁵⁵
- 7.5 Moreover, indigenous women are often subjected to ethnicity-based discriminatory practices and negative attitudes of healthcare providers. There is a tendency towards treating indigenous patients as burdensome, ignorant and/or uneducated,⁵⁶ resulting in medical personnel not giving adequate time and attention to their health problems, or downplaying or misconstruing their health problems.⁵⁷
- 7.6 Indigenous women face greater and multiple layers of discrimination based on gender inequalities (within and outside their community) as well as the indigenous identity, which is attributed as ‘double burden’.⁵⁸ Such layers further multiply when accompanied by discrimination based on social or economic status.
- 7.7 Indigenous women face specific difficulties different from men, particularly in relation to their traditional roles and responsibilities and needs for sexual and reproductive healthcare services.⁵⁹ Hospitals do not offer specialized services needed for indigenous women, and lack specialised services and staff. In hospitals, a lack of recognition is given to traditional midwives of indigenous peoples: midwives are not allowed to enter the delivery rooms at hospitals even though they could provide important support to indigenous women, who have to deliver in a place where they lack trust and confidence.⁶⁰
- 7.8 For indigenous women living with HIV, the challenge is greater as they often do not have options or a support system particularly one providing psychological support for those who decide to continue or terminate a pregnancy.⁶¹ This is made more difficult by a system that does not recognise or provide them with appropriate information on HIV as well as sexual and reproductive health, so that these women can take decisions on their own reproductive health care needs.⁶² Either the information provided is too general and not tailored to their social and economic situation or they are not provided with any information at all. Policies such as the criminalisation of abortion and the practice of unsafe abortion as the only resort lead to the decision not to have an abortion instead risking transmission from the HIV+ mother to her child.⁶³



7.9 During the COVID-19 pandemic, due to travel restrictions and viewing it as non-essential, indigenous women were deprived of access to sexual and reproductive healthcare services such as contraception and safe abortion.⁶⁴ Even though some organisations provide assistance to women during the pandemic, through their support of sexual and reproductive health, these organisations disclose that they are hindered by not having any access to marginalized populations requiring their services the most, such as indigenous women and migrant women in border areas.⁶⁵ These challenges do not seem like they will be resolved anytime soon, with responses to the COVID-19 pandemic in Thailand failing to be gender-responsive, harming indigenous women.⁶⁶

8. Indigenous women face challenges in accessing education

8.1 During the 2nd UPR cycle, the Thai government did not receive any recommendation specifically addressing the challenges of indigenous women in accessing education. However, the Thai government received six recommendations relating to access to education, which it supported but failed to implement.

8.2 Lacking legal status, indigenous women are subject to multiple challenges and discrimination, which prevent them from enjoying their right to education. According to the UNESCO Highland Peoples Survey, indigenous peoples who lack citizenship are 80% less likely to enter primary school and 75% less likely to progress to secondary school, compared to those holding Thai citizenship.⁶⁷ When indigenous women are able to access education, education is usually of poor quality,⁶⁸ and they are charged higher tuition fees than Thai citizens.⁶⁹

8.3 Because of cultural values and gender roles, indigenous women face greater difficulties than men in accessing education. The community surveys conducted by IWNT and Manushya Foundation demonstrates that the average level of education is better for men than women and that men have attained higher education than women.⁷⁰

9. Indigenous women's land and resource rights are violated, and they face evictions from ancestral lands

9.1 During the 2nd UPR cycle, the Thai government did not receive any recommendation specifically addressing the violation of land and resource rights of indigenous women and their evictions from ancestral lands. However, the Thai government received one recommendation relating to the protection of the rights of local communities in the context of environmental legislation.

9.2 Indigenous peoples maintain a spiritual relationship with their ancestral lands and natural surroundings that is linked with their identity and culture. Physical and overall well-being of indigenous peoples depends on their ownership, control and access to their lands and resources notably because they significantly rely on natural



and biological resources, which are crucial for their survival. In that, indigenous women have a particular role because they are the main food producers, natural resources management experts, ethnobotanists, and transmitters of indigenous culture and knowledge.⁷¹

- 9.3 Indigenous peoples in Thailand have been facing significant challenges to their lands and resources because of problematic forest conservation policies and programs. The challenges exacerbated in 2014 when the Thai military government adopted and enforced orders for “forest reclamation.” State-led development efforts, as well as business operations, which are often connected, have also affected land and resource rights of indigenous peoples.⁷²
- 9.4 Because of the lack of recognition of collective and individual land and resource rights of indigenous peoples, indigenous peoples are often subjected to forced evictions, usually with the use of violence, threat and intimidation, which have a critical impact on indigenous peoples’ mental and physical health and security.⁷³
- 9.5 The Urak Lawoi in Sapum village in Phuket province have been threatened with forced evictions by the Thai government in order to build a marine port, despite their settlement in the area more than 60 years ago.⁷⁴ Because of their dependence on fishing for food and income, their evictions will result in the loss of their livelihoods and traditional practices and culture.⁷⁵
- 9.6 Other examples involving business operations include the case of land grabbing by business actors in Sireh Island in Phuket province from the Urak Lawoi, who are believed to have settled in the area for as long as two centuries but lack official land titles.⁷⁶ The Supreme Court ruled in favor of the Urak Lawoi, and the villagers have requested the Land Department to withdraw the investors’ land titles. However, the case is marked by serious issues. Manifestations of community manipulation and judicial interference in favor of business actors in the case indicate signs of corporate capture over struggles for land and resource rights.⁷⁷
- 9.7 Business actors have also encroached on the traditional cemetery of the Moken in Phang Nga province as a result of increasing tourism business operations. Even though authorities have been informed about the conflict, no conclusion has been reached.⁷⁸
- 9.8 The practice of forced evictions continues to date, with the arrest and detention of 22 Bang Loi Karen, including women, who refused to leave their ancestral lands, in March 2021.⁷⁹
- 9.9 Given their gender and specific roles in use and management of land and resources in the communities, indigenous women face greater impacts than men. Particularly in cases of relocation, indigenous women are usually denied financial compensation provided per household. They frequently face higher levels of violence, including gendered and systematic abuse, in the course of land dispossession and forced



evictions.⁸⁰

- 9.10 The case of land grabbing in Sireh Island in Phuket province is of particular significance, as it demonstrates the lack of equal and effective participation of indigenous women even within their communities. The women were excluded from the preparation and proceedings of the lawsuit and their concerns were not taken into consideration.⁸¹

10. Indigenous women are negatively impacted by tourism

- 10.1 During the 2nd UPR cycle, the Thai government did not receive any recommendation specifically addressing the negative impact of tourism on indigenous women. However, the Thai government received two recommendations relating to the protection of women's rights and five recommendations calling upon it to combat violence against women, which it supported but failed to implement.

- 10.2 Detrimental impacts of tourism on indigenous peoples include worsening living conditions, lack of access to benefits, and deprivation and degradation of natural resources and livelihoods.⁸² For example, in Thong Luang, forests, water sources, and other resources have been affected by pollution from tourism businesses.⁸³ Because of increasing tourism business operations in the area, the Urak Lawoi have faced restrictions in observing their traditional and spiritual celebrations.⁸⁴

- 10.3 Besides such direct impacts, indigenous peoples are subject to exploitative tourism practices. The majority of those interviewed by IWNT and Manushya Foundation who work in the sector reportedly earn less than THB 3,000 (USD 94) a month, which is three times less than the Thai minimum wage.⁸⁵

- 10.4 Indigenous women are more negatively impacted than men, as they suffer from increased domestic violence and abuse due to high rates of alcoholism among men in the communities.⁸⁶

11. Indigenous women are unable to access justice and effective remedies and thereby secure protection of their rights

- 11.1 During the 2nd UPR cycle, the Thai government did not receive any recommendation specifically addressing the challenges of indigenous women in accessing justice and effective remedies. However, the Thai government received two recommendations relating to the protection of women's rights, which it supported but failed to implement.

- 11.2 Indigenous women remain unable to access justice and effective remedies. Within indigenous groups, discussing personal matters, such as sexual life and domestic violence, is still considered taboo. When indigenous women face domestic violence, they often do not seek redress through the justice system,⁸⁷ as they face social stigma while registering their complaints. Moreover, the justice system lacks gender



sensitivity, and law enforcement officials often have negative and discriminatory attitudes and stereotypes towards indigenous women, leading to a failure to register and investigate complaints.⁸⁸

- 11.3 In 2017, CEDAW expressed its concerns about the persistence of multiple barriers impeding indigenous women from obtaining access to justice and effective remedies for violations of their rights. Such barriers include: (1) social and cultural stigma, which deter women and girls from registering their complaints, in particular with regard to sexual and gender-based violence; (2) limited legal literacy and access to information on remedies that are available; (3) lack of gender sensitivity in the justice system, including negative attitudes of law enforcement officials towards women denouncing violations of their rights, leading to frequent failures to register and investigate complaints; and (4) widespread and pervasive corruption, which continues to impede women’s access to justice.⁸⁹

12. Recommendations

IWNT and Manushya Foundation make the following specific recommendations to the Thai government and calls on to guarantee that indigenous women’s rights are protected and upheld.

12.1 Regarding the failure to ratify ILO No. 169 and legal gaps in domestic legislation resulting in limited protection of indigenous women’s rights

- a. In line with the Recommendation of the UN Special Rapporteur on the Rights of Indigenous Peoples, ratify the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).
- b. In line with the 2017 Concluding Observations of the Human Rights Committee, UNDRIP and ICERD, revise the 2017 Constitution to explicitly recognize indigenous peoples and be in line with international standards for the rights of indigenous peoples.
- c. In line with Article 7 of CEDAW, conduct separate public hearings for indigenous women in different regions of Thailand on the draft Act on the Protection and Promotion of the Way of Life of Ethnic Groups.

12.2 Regarding the challenges indigenous women face in accessing citizenship

- a. In line with Articles 9 of CEDAW and Article 6 of UNDRIP, ensure indigenous women have equal access to nationality as men, taking into account the limitations which currently restrict them from doing so.
- b. In line with Article 5 of CERD, Articles 3, 10, 11, 12, 13 and 14 of CEDAW and Articles 2 and 21 of UNDRIP, ensure indigenous women enjoy their rights to freedom of movement and access to education, employment, healthcare and



social protection without undue restriction.

12.3 Regarding the discrimination against indigenous women

- a. In line with Articles 2 and 4 of ICERD and Articles 2 and 5 of CEDAW, adopt a comprehensive anti-discrimination law addressing discrimination against indigenous peoples, particularly indigenous women.
- b. In line with Section 9 of the 2017 Concluding Observations of CEDAW Committee to Thailand, remove the exceptions contained in Section 17 paragraph 2 of the Gender Equality Act of 2015 with regard to the prohibition of discrimination on the basis of gender.

12.4 Regarding the exclusion of indigenous women from participation in the public sphere

In line with Article 7 of CEDAW and Article 4 of UNDRIP, in conjunction with Section 29 of the 2017 Concluding Observations of CEDAW Committee to Thailand:

- a. Guarantee equal representation and participation of indigenous women in the decision-making process for matters concerning indigenous peoples.
- b. Support proportional inclusion of indigenous women in all levels of State mechanisms, including through special temporary measures and affirmative actions.

12.5 Regarding the vulnerability of indigenous women to human trafficking and domestic violence

In line with Article 6 of CEDAW, in conjunction with CEDAW General Recommendation No. 19, and Article 7 of UNDRIP, as well as Sections 25 and 27 of the 2017 Concluding Observation of CEDAW Committee to Thailand:

- a. Carry out targeted measures to resolve specific violence and discrimination that indigenous women face at disproportionately high levels.
- b. Recognize that human trafficking is a systemic problem resulting from other human rights violations inflicted on indigenous women. Legal and policy reforms, as well as enforcement of laws and policies on indigenous women's rights, should be implemented.
- c. Focus on prevention strategies to combat human trafficking by addressing the discrimination of indigenous women, while adopting and enforcing a zero-tolerance policy on officials who facilitate the exploitation of indigenous women,



both within the country and across its borders.

12.6 Regarding the challenges indigenous women face in accessing healthcare services

In line with Article 12 of ICESCR and Article 24 of the UNDRIP, in conjunction with Section 39 of the 2017 Concluding Observations of CEDAW Committee to Thailand:

- a. Provide adequate resources to healthcare facilities in areas where indigenous peoples live so that they are equipped with necessary personnel and services, specifically in relation to indigenous women's health issues.
- b. Improve public health schemes for indigenous peoples, particularly for indigenous women, such as free, regular, and maternal healthcare, in order to end disparities in health standards with non-indigenous peoples.
- c. Provide specific support for interpreters, who should be able to provide support for specific sexual and reproductive health issues of indigenous women.

12.7 Regarding the challenges indigenous women face in accessing education

- a. In line with Article 10 of CEDAW, improve access to education for indigenous peoples, particularly for indigenous women, including through providing specific scholarships for them.

12.8 Regarding the violation of indigenous women's land and resource rights and their evictions from ancestral lands

In line with Articles 3 and 26 of UNDRIP:

- a. Ensure that prior consultations inclusive of indigenous women are held with a view of obtaining indigenous peoples' free, prior, and informed consent regarding their land and resource rights.
- b. Reform the National Parks Act of 2019 to respect indigenous peoples' rights to their ancestral lands.

12.9 Regarding the negative impact of tourism on indigenous women

- a. In line with Principles 1 and 2 of the UN Guiding Principles on Business and Human Rights, design and implement development programmes concerning indigenous peoples and their lands and resources, such as those related to tourism, only after meaningful consultation. Ensure that indigenous peoples can effectively participate in decision making processes and that they lead in implementing such programmes;



12.10 Regarding the inability of indigenous women to access justice and effective remedies and thereby secure protection of their rights

- a. In line with Article 6 of UNDRIP, in conjunction with Section 11 of the Concluding Observations of CEDAW Committee to Thailand, carry out awareness-raising campaigns in indigenous communities on justice and effective remedies available to them.



Endnotes

- ¹ International Institute for Asian Studies, *Indigenous Peoples' shifting engagements with the Thai state*, (September 2017), available at: <https://www.iias.asia/the-newsletter/article/indigenous-peoples-shifting-engagements-thai-state>; MF Report p. 15
- ² Manushya Foundation and the Indigenous Women's Network of Thailand, *Raising our voices to save our future*, (September 2019), p. 21, available at: https://a9e7bfc1-cab8-4cb9-9c9e-dc0cee58a9bd.filesusr.com/ugd/a0db76_f73f480caaa44677852d8fe7116a613d.pdf
- ³ Constitution of the Kingdom of Thailand (2017), Section 70, available at: [https://constitutionnet.org/sites/default/files/2017-05/CONSTITUTION+OF+THE+KINGDOM+OF+THAILAND+\(B.E.+2560+\(2017\)\).pdf](https://constitutionnet.org/sites/default/files/2017-05/CONSTITUTION+OF+THE+KINGDOM+OF+THAILAND+(B.E.+2560+(2017)).pdf)
- ⁴ Constitution of the Kingdom of Thailand 1997, Section 46, available at: <http://www.asianlii.org/th/legis/const/1997/1.html> ; Constitution of the Kingdom of Thailand 2007, Article 66, available at: <http://www.nhrc.or.th/getattachment/a763edba-e97a-4dbf-98cc-a95160221069/.aspx>
- ⁵ Manushya Foundation and the Indigenous Women's Network of Thailand, *Raising our voices to save our future*, (September 2019), p. 21, available at: https://a9e7bfc1-cab8-4cb9-9c9e-dc0cee58a9bd.filesusr.com/ugd/a0db76_f73f480caaa44677852d8fe7116a613d.pdf
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