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Joint Submission to the UN Committee on the Elimination of Discrimination against  
Women (CEDAW)

On  
The Situation Faced by Women in the Deep South

By  
Cross Cultural Foundation (CrCF) and other Local Civil Society Organizations

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## **Compilation of Recommendations**

### **Article 2**

1. The government must prioritize the protection of women/civilians in the violent unrest by continuing the peace talks. The government must ensure that economic and cultural zones remain free from violence. The government must ensure that both the state and the non-state armed groups respect International Humanitarian Law (IHL), especially Article 3 of Geneva Convention, CEDAW, and Protocol Additional to the Geneva Conventions of 12 August 1949.
2. The government must take all appropriate measures to ensure that human rights violations are investigated sufficiently, impartially, and transparently, both during and post-conflict. The recently updated United Nation's Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) provides a useful set of guidelines that can be used to ensure that state investigations meet international standards.
3. The government must ensure that its operation and enforcement of special laws in the areas does not affect the situation of women and children. The widespread arrest and detention of men within the Deep South causes substantial difficulties for families and for women. It must also take measures to bring perpetrators to justice and prevent the reoccurrence, and provide appropriate remedies to the victims.
4. The government must stop the practice of DNA collection of children. Consent for the collection of DNA from adults must not be gained in a coercive manner. Consent must be free and informed.
5. The government must take all appropriate measure to implement new programs or enhance existing programs that support women who have been thrust into supporting their families as a result of the violent unrest. The government must be willing to cooperate with the armed groups in building sustainable peace for the people.

### **Article 5**

6. The government should develop gender-specific guidelines to enable HRDs work in the Deep South. The guidelines should be widely disseminated, especially among security officers, government officials, and religious leaders.
7. Government should finance and support local women's initiatives. Only then can the intersectionality of the discrimination that women face be fully understood and comprehensively addressed.

### **Article 7**

8. The government must ensure that the national strategy action plan is pursuant to the measures of Security Council 1325 (2000). With efficiency, the government must include and empower

the participation of women in peace process and policy making in all sectors, at all levels, by promoting positive attitudes towards gender equality in politics.

9. The government should establish coordination centers to monitor policy and strategies on women, peace promotion, and security.
10. The government must address the specific violations WHRDs experience and undertake preventive measures to avoid future abuse. The government must stop the practice SLAPP. The government must develop new mechanisms for more effective accountability of both state and non-state actors for violation against WHRDs, online and off-line.

### **Article 12**

11. The government must undertake appropriate measures to provide remedies and psychological assistance to victim of violence and their family members. More resources for mental health service must be provided, and the government should tailor these services for the Muslim population.

### **Article 15**

12. The government must ensure that women's rights are respected and that there is accountability for abuses for families and communities. There must adequate remedies for the victims and an effective legal aid system that is sensitive to violations against women and girls.
13. Together with local women's CSOs, the government should disseminate educational material on the legal rights of women. The government should ensure that both women and men are informed of the legal remedies available to women, both the remedies available according to Islamic law and those available under the Thai Criminal Code or the Domestic Violence Protection Act.

## Introduction

14. This is a submission by the Cross Cultural Foundation (CrCF), supported by Duay Jai Group, the HAP (Patani Human rights Network), and other contributing individuals. CrCF is based in Bangkok and provides legal assistance and advocacy to victims of violence nationwide, and has been working in the Deep South since 2009. Duay Jai Group was founded by the family of a detainee, who was charged with a security-related offence, and works closely with victims-based groups as well as the victims' families in the Deep South. HAP is Yala based organization working on assisting former detainees and families of victims of human rights violation in the Deep South. HAP has also created a women section to operate their assistance program since 2013.
15. 13 years since the violence broke out in the Deep South in 2004, there have reportedly been 6,847 deaths and 12,538 injuries.<sup>1</sup> The violence has been widespread and has affected everyone residing in the area, including women and girls.
16. Since Thailand has ratified CEDAW in 1985 and its optional protocol in 2000, Thailand has made important progress toward eliminating discrimination against women. Nevertheless, significant challenges remain. This is particularly true in the Deep South, where the ongoing political situation has provided unique challenges for women. Indeed, in their recommendations to Thailand in 2006, the CEDAW Committee expressed concerns about the situation in the South:

The Committee is concerned about the situation of Muslim women in the south of the country who lack access to education, social security, health care and economic opportunities, and are subjected to early marriage due to cultural norms. The Committee is also concerned that this situation is further exacerbated by the recent unrest in the south.<sup>2</sup>

17. Some important progress has been made in the south in eliminating discrimination against women and improve their overall situation. Some of the progress has been noted in the Thai Government's response to the Concluding observations on the combined first to third periodic reports.<sup>3</sup> Nevertheless, women continue to face structural discrimination in the Deep South and also face intersectional challenges relating to the ongoing violence.

### *Background on the Insurgency and Counterinsurgency in the Deep South*

18. On 4 January 2004, unidentified gunmen raided an army ammunition depot in Narathiwat province, looting over 100 rifles along with other ammunition and killing 4 senior ranking soldiers in the attack.<sup>4</sup> This is considered to be the turning point of the violence. The next

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<sup>1</sup> Deep South Coordinating Center (Sor.Wor.Chor.Tor)

<sup>2</sup> CEDAW Committee on the Elimination of Discrimination against Women Thirty-fourth session, 16 January-3 February 2006, para 35.

<sup>3</sup> Concluding observations on the combined first to third periodic reports of Thailand. Addendum. Information received from Thailand on follow-up to the concluding observations [24 December 2013]

<sup>4</sup> Details found in the current insurgency section at <http://www.private-detective-thailand.com/index.php?lay=show&ac=article&Id=264632>

- day, two more soldiers were killed by a bomb. Subsequently, then Prime Minister Thaksin Shinawatra announced the implementation of Martial Law Act 1914<sup>5</sup> within the area<sup>6</sup>.
19. Authorities in the Deep South initially responded by trying to quickly identify individuals involved with the insurgency. The practices employed by authorities at the time included many illegal approaches. It was common for authorities to round up people deemed to be suspects of the violence without warrants for their arrest and to lock them up in the detention centers without access to legal representatives or other necessary resources.
  20. The Martial Law Act 1914, has been applied since 2004 in the region; in Yala, Pattani (except Maelan District) and Narathiwat provinces, authorities are empowered to detain individuals for seven days without a warrant.
  21. In July 2005, the Emergency Decree on Public Administration in State of Emergency, BE 2548 (2005)<sup>7</sup> was implemented. Although it has been revoked in certain areas, such as the 4 districts of Songkhla and Mae Lan district of Pattani in 2009, it is still firmly in place in much of the region.<sup>8</sup> The 2005 Emergency Decree allows authorized officers to detain arrested individuals for an additional 30 days, with some level of judicial review.
  22. As a result of both the Martial Law Act and the 2005 Emergency Decree, individuals have seen their legal rights diminish. Both the military and police have held detainees in special detention centers, often without access to lawyers. Detainees have also been deprived of adequate medical care and have had limited opportunity to meet family members (especially during the first 7 days of detention). Numerous allegation of torture have been documented, and practice seeming has not been discontinued.
  23. Under the Yingluck government, peace talk between National Security Council and the main insurgency group, the Barisan Revolusi Nasional (BRN), took place for the first time in Kuala Lumpur in 2013. The Yingluck Government was removed by a military coup in 2014. Military rule initially led to a decline in violence in the Deep South. Nevertheless, violence continues. Peace talks and planned ceasefires have not lead to significant changes on the ground in 2014, 2015 and 2016.
  24. As a result of the unrest, women in the Deep South have suffered from a variety injuries and have been faced with numerous hardships. The specific problems women continue to face in the region are not being adequately addressed by the various governments.
  25. Drawing on news reports, academic articles, and CSO reports that include reports and research conducted by the CrCF in the Deep South, this submission will provide a consolidated update on the specific challenges that women face in the Deep South.
  26. This submission consists of five parts, each of which will highlight issues pertaining to an article of the CEDAW.

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<sup>5</sup> A copy of the Martial Law act can be found at: <http://www.thailawforum.com/laws/Martial%20Law.pdf>

<sup>6</sup> Date of announcement confirmed by report on CNN website. Access can be found at: <http://edition.cnn.com/2004/WORLD/asiapcf/01/05/thailand.bombs/>

<sup>7</sup> A copy of the Emergency Decree 2005 can be found at: <http://www.icnl.org/research/library/files/Thailand/Emergency.pdf>

<sup>8</sup> Information sourced from the Government Public Relations Department. Information can be found at: [http://thailand.prd.go.th/view\\_news.php?id=7052&a=2](http://thailand.prd.go.th/view_news.php?id=7052&a=2)

## **Article 2: Domestic Legislation and Other Appropriate Measures to Eliminate Discrimination against Women**

27. Women in the Deep South remain the victims of violence. Indiscriminate shootings and bombings have killed and injured thousands of women. The loss of men in the unrest – from death, detention, or enforced disappearance – has had significant impacts on the lives of women and their families. Apart from the emotional distress of losing a family member, women have been burdened with additional responsibilities, having to both provide economically for their family while continuing to perform traditional domestic duties.

### *Female deaths and injuries*

28. Although men have suffered the majority of fatalities from the unrest, women have also been victims. In 2014, Deep South Watch reported that there were a total of 459 female fatalities between January 2004 to April 2014, compared to a total of 5,212 male fatalities.<sup>9</sup> Although men are often the target of violence and make up the overwhelming majority of fatalities, women continue die or suffer serious injuries as a result of indiscriminate shootings and bombings. For example, on 9 May 2017, a bomb attack at Big C in Pattani caused injuries to 43 women. This incident reflects the often indiscriminate nature of the violence as well as the Internal Security Operations Command's (ISOC) insufficient security system.<sup>10</sup> Similarly, in April 2017, Deep South Watch reported that there were a total of 109 violent incidents that resulted in 21 deaths. Four of these fatalities were females, and Deep South Watch categorizes 14 of the fatalities as soft targets.<sup>11</sup>
29. Women have also been injured in many of the incidents. Of the nearly 14,000 injuries that have occurred as a result of the unrest between 2004-2015, women have accounted for approximately 3000 of the injured persons. For example, a female food vendor (name omitted) in Pattani was shot in an incident, with the bullet going through one of her lungs. While on bed rest in hospital, she suffered from depression and became extremely worried that her two children would have to drop out of school as she was unable to work. With the help from women civil society networks, who came to visit and support her, she was able to begin to recover mentally and physically. She no longer requires anti-depressants.<sup>12</sup>
30. Extensive attacks on public spaces such schools and hospitals in the Deep South pose serious risks of death and injuries to the residents. Between 2004-2015 there were 315 security-cases of arson on schools: 81 in Yala, 134 in Pattani, 83 in Narathiwat and 17 in Songkhla. Based on statistics compiled by IsraNews Agency, between 2004 and 2016 there were 32 attacks on hospitals and healthcare services centers in the Deep South. These attacks include arson, vandalism, and bombings. Such attacks contravene international humanitarian law, international human rights standards, and Islamic principles of war, which strictly forbid attacks against schools, hospitals, women, and children.

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<sup>9</sup> Center for Conflict Studies and Cultural Diversity [CSCD], "Men and Youth in Thailand's Conflict-Affected Deep South," 2015, p. 1. Available at

[http://deepsouthwatch.org/sites/default/files/men\\_and\\_male\\_youth\\_english\\_web\\_version.pdf](http://deepsouthwatch.org/sites/default/files/men_and_male_youth_english_web_version.pdf)

<sup>10</sup> Cross Cultural Foundation, "Internal Report," June 2017.

<sup>11</sup> Deep South Incident Database: DSID, "Summary of Incidents in Southern Thailand – April 2017." Data as of May 1, 2017 09.00 pm. Available at <http://www.deepsouthwatch.org/en/node/10682>

<sup>12</sup> Cross Cultural Foundation, "Internal Report," June 2017.

31. Given the prevalence of attacks on soft targets, the establishment of safety zones has become a prominent issue. The issue of establishing safety zones has been a central issue in negotiations between the Thai government and militant-groups representatives of MARA Patani. MARA Patani was established in March 2015. It is an umbrella organization that nominally represents five militant groups: BRN, Barisan Islam Pembebasan Patani (Islamic Liberation Front of Patani, BIPP) two faction of the Patani United Liberation Organization (PULO), and Gerakan Mujahidin Islam Patani (Patani Islamic Mujahidin Movement, GMIP).<sup>13</sup> Negotiations between the government and MARA Patani have made progress towards the creation of safety zones. In March 2017, five months after a preliminary agreement on preconditions for peace talks,<sup>14</sup> the government and Mara Patani agreed on a general framework to set up safety zones in the Deep South.<sup>15</sup> However, despite the apparent agreement, the safety zones have not been fully respected by insurgent groups.<sup>16</sup> The establishment and universal recognition of safety zones, therefore, remains a vital priority. Safety zones are necessary to ensure the safety of women and other civilians in the Deep South.

*Martial Law, Arbitrary Arrests, DNA Collection, Enforced Disappearance, and Widowhood*

32. The disproportionate use of martial law has also threatened women's rights in the Deep South. There have been documented cases of women subjected to arbitrary arrest, detention, and interrogation. This often occurs if there has been a violent incident, if the woman has a family member fleeing prosecution, or if the woman has a family member who is accused of being involved in a security-related case. On 22 April 2013, a woman was arrested under martial law on suspicion of a bombing at a Ranger Task Force Unit in Khok Poh District, Pattani. She was taken to a military base for an interrogation but she was released later on and they arrested her brother instead. On 20 August 2016, a woman's house was raided. Police were looking for a family member of the woman, and subsequently questioned the woman at Sayburi police station.
33. Other cases of women subjected to prosecution have also been documented by a local woman's CSO. On 13 December 2016, a woman aged 24—who lived with her mother in Rueso Sub-district, Narathiwat—was accused of criminal association and providing accommodation to the suspects in security-related cases. Furthermore, martial law has been disproportionately used in a case of a woman who was arrested on the grounds that she had many followers on her Facebook. On 14 August 2016, a blogger and her husband were arbitrarily arrested and held in custody at the Ingkhayuthborihan Military Camp. The blogger was a popular public figure supported by many Muslim women readers. Without clear evidence, the authorities deemed that some of her posts on social media were related to the violent incidents in the Deep South.

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<sup>13</sup> International Crisis Group, "Southern Thailand's Peace Dialogue: No Traction," Crisis Group Asia Briefing N°148, 21 September 2016, p. 4. Available at <https://www.crisisgroup.org/asia/south-east-asia/thailand/southern-thailand-s-peace-dialogue-no-traction>

<sup>14</sup> "Thai govt, Deep South insurgents reach agreements crucial for official peace talks", *Prachatai*, 2 September 2016. Available at <https://prachatai.com/english/node/6533>

<sup>15</sup> "Framework agreed for safety zones in Deep South", *Prachatai*, 1 March 2017. Available at <https://prachatai.org/english/node/6961>

<sup>16</sup> "Shooting in Thailand's south kills four despite safety zone deal – police" *Reuters*, 2 March 2017. Available at <http://www.reuters.com/article/us-thailand-insurgency-idUSKBN1690HC>

34. Female minors have also reportedly been taken to army bases for questioning, without their parents. One instance occurred on 8 September 2016, when two sisters (15 and 17 years old) were taken to an army base for a questioning. Despite attempts from the Ministry of Justice, there has not been any progress on the improvement of questioning and arrest of minors.
35. DNA collection of family members has been incorporated into the practice of the authorities to find the people accountable for the insurgency. Documentation on cases of DNA collection of children as young as 5 months old has been revealed by a local organization led by a woman activists.<sup>17</sup> The coercive DNA collection under martial law was also condemned by the National Human Rights Commission in its report 158/2558. Nevertheless, the DNA collection of children and other civilians continues, often with authorities asking them to sign a consent form under coercive conditions.
36. The unrest and tumultuous political situation in the Deep South have also, indirectly, created new challenges for women in the region. Specifically, women have had to shoulder additional burdens as male family members have been arrested, disappeared, or killed as a result of the unrest. Between 2004 and 2015, approximately 3,177 women have become widows after losing their husbands died in the insurgency. These women shoulder additional economic and social burdens, as they are often forced to enter the labour market in order to provide for their family while simultaneously fulfilling their previous social role within the household.
37. Similarly, between 2004 and 2014, there were arrest warrants issued under the Emergency Decree to 5,469 persons. Some of the prosecuted men in security cases were charged with evidence, while others were implicated without clear evidence. Of those arrested, 61 percent were granted bail, with the remaining 39 percent remaining in detention for 1-2 years while they awaited legal proceedings.<sup>18</sup> The widespread arrest and detention of men within the Deep South causes substantial difficulties for families and for women. Economically, the loss of the bread winners results in drastic income reduction, which can be further exacerbated as family use the money they for litigation and for bail. Moreover, the families of these people have to live in fear, as they are under constant monitoring by ISOC officers.<sup>19</sup>
38. As well, there are also the indirect effects on woman as a result of extrajudicial killings and enforced disappearances. Between 2004 and 2015, there have been 365 cases of extrajudicial killings. In most cases, wives and mothers of the deceased refuse to participate in the investigation or inquiry. The family of the deceased often refuse to participate in the inquiry process due to either a lack of faith in the justice system or because they cannot afford to take legal action. Similarly, although there has been a reduction in enforced disappearances in the Deep South, enforced disappearances remain a problem. In January 2016, a Fadel Sohman went missing on his way to meet up with his fiancée at a school in Pattani. His sisters and mother have had to face a lot of difficulties in searching for him and in searching for answers regarding what happened. The ISOC officers believe that he was fleeing prosecution.

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<sup>17</sup> ทหารชี้แจง ตรวจDNA เด็ก 5 เดือน โยงไปถึงพ่อ ที่เป็นมือระเบิด อ่านข่าวต่อได้ที่, Thairath Online, 25 November, 2015. Available at <http://www.thairath.co.th/content/541877>

<sup>18</sup> Cross Cultural Foundation, "Internal Report," June 2017.

<sup>19</sup> Center for Conflict Studies and Cultural Diversity [CSCD], "Men and Youth in Thailand's Conflict-Affected Deep South," 2015, p. 4. Available at [http://deepsouthwatch.org/sites/default/files/men\\_and\\_male\\_youth\\_english\\_web\\_version.pdf](http://deepsouthwatch.org/sites/default/files/men_and_male_youth_english_web_version.pdf)

*Recommendations*

39. The government must prioritize the protection of women/civilians in the violent unrest by continuing the peace talks. The government must ensure that economic and cultural zones remain free from violence. The government must ensure that both the state and the non-state armed groups respect International Humanitarian Law (IHL), especially Article 3 of Geneva Convention, CEDAW, and Protocol Additional to the Geneva Conventions of 12 August 1949.
40. The government must take all appropriate measures to ensure that human rights violations are investigated sufficiently, impartially, and transparently, both during and post-conflict. The recently updated United Nation's Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) provides a useful set of guidelines that can be used to ensure that state investigations meet international standards.
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42. The government must stop the practice of DNA collection of children. Consent for the collection of DNA from adults must not be gained in a coercive manner. Consent must be free and informed.
43. The government must take all appropriate measure to implement new programs or enhance existing programs that support women who have been thrust into supporting their families as a result of the violent unrest. The government must be willing to cooperate with the armed groups in building sustainable peace for the people.

## Article 5 : Elimination of gender-stereotyped roles

### *Education about Women's Rights*

44. More local women need to be able to participate in social movements. The Ministry of Social Development and Human Security has initiated the process of drafting the National Action Plan on Women's Peace and Security according to Security Council Resolution 1325. The Ministry of Social Development and Human Security appointed a subcommittee on women, peace promotion, and security. Ethnic Muslim women from the Deep South of Thailand are part of this subcommittee. However, there has been slow progress made, and women stakeholders and groups affected by violence do not play a significant role nor are they part of the decision-making process.
45. There are now many women's groups in the Deep South working on violence against women, including domestic violence and sexual violence, which are not recognized as urgent issues by community leaders in the area. Women's groups are facing many obstacles—including lack of funds, rejection by religious leaders, and insufficient knowledge of Islamic law and Thai Criminal Law.
46. In the second session of the Universal Periodic Review, Thailand was recommended to improve the reporting of violence against women and to have more effective investigations, prosecutions, and remedies. However, women are currently not empowered to safely report and document complaints to relevant agencies.
47. As noted by a female human rights activist (name omitted) in her experience in the Deep South, knowledge and understanding about women rights are limited within the region. Raising issues pertaining to women's rights can also be challenging given existing assumptions and attitudes toward women's rights within communities in the Deep South. Many individuals perceive women's rights as an anti-Islamic value. As such, failure to recognize and to be sensitive toward existing cultural beliefs and traditions can lead to misconceptions about and an aversion towards women's rights. It is therefore important that the promotion of women's rights in the region is done in a manner that respects local communities. Without careful consideration given to the specific cultural context of the Deep South, there is a high probability that a substantial number of Muslims within the region may reject and oppose the promotion of women's rights.<sup>20</sup>
48. Although it is critically important to promote women's rights and to provide educational materials, the concept is more likely to be accepted if it is not seen as an imposed ideology. As such, the concept should try to be contextualized. For example, reformist Islamic women organizations have the potential to interpret religious texts based on ideas of "gender justice," which does not inherently conflict with religious principles. The dynamics in local communities are complicated, but there are opportunities to disseminate educational materials and to promote ideas of gender equality. For example, rather than trying to divorce Islamic textual authorities from the everyday life of Malay people in the Deep South, women's rights can be introduced in a manner that is congruous with Islamic teachings. It is important to listen to the voices of women and to support women's initiatives. Only then can the intersectionality of the discrimination that they face be fully understood and comprehensively addressed.

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<sup>20</sup> Cross Cultural Foundation. Interview with human rights activist who works in the Deep South. Interview conducted in June 2017.

### *LGBT Rights*

49. LGBT people also continue to face discrimination in the Deep South. On 7 February 2017, Thai PBS released a documentary about a football club founded by LGBT activists. The football club was created in order to provide local women and LGBT individuals with a safe space to express themselves. After the documentary aired, LGBT activists, LGBT advocates, and participants in the football club have faced harassment and threats of violence.<sup>21</sup> Open discussion about sexual orientation and gender identity continue to be taboo in the Deep South. Individuals continue to be discriminated against or even physically attacked because of their sexual orientation and gender identity.<sup>22</sup>

### *Recommendations*

50. The government should develop gender-specific guidelines to enable HRDs work in the Deep South. The guidelines should be widely disseminated, especially among security officers, government officials, and religious leaders.
51. Government should finance and support local women's initiatives. Only then can the intersectionality of the discrimination that women face be fully understood and comprehensively addressed.

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<sup>21</sup> “No future for LGBT right in the Deep South? Prachatai, 10 April 2017. Available at <https://prachatai.com/english/node/7064>

<sup>22</sup> *Ibid.*

## **Article 7 - Elimination of gender-based discrimination in public and political life**

### *Woman in Politics and Political Committees*

52. Women in the Deep South continue to be excluded from fully participating in political and public life. There are numerous obstacles that prevent women from taking up leadership roles in public life. These include stereotypes, social expectations, as well as the existing burdensome roles that women play within the family.
53. Prior to the military coup in 2014, under the Southern Border Provinces Administration Act (SBPACT) B.E. 2533 (1990), the Southern Border Provinces Administration and Development Advisory Board was created. There were only with six women among 49 members on the board. In 2013, the SBPACT Advisory Board also announced the creation of a working group on peace talks between the Thai government and the insurgents. No women were included in this working group. Currently, the SBPACT is under the operation of ISOC (Internal Security Operation Command) region 4. The SBPACT has lost their impartiality and credibility to be the channel of civilian control over the conflict resolution in the Deep South.
54. Lack of female representation in religious institutions is a significant obstacle to addressing social issues such as rape, sexual harassment, and domestic violence in the Deep South. Important religious institutions include the Sheikhu Islam Office,<sup>23</sup> the Central Islamic Council of Thailand, and local Islamic committees in the Deep South. There has been an effort initiated from women CSOs and the Law Reform Commission to establish a Women's Department within those formal religious institutions in order to promote and empower women. The objective of these religious institutions is to bring to peace and social justice to the Muslim population, both for men and for women. It is essential, therefore, to integrate the women's perspective in the justice work of these religious institutions, at all levels.
55. Despite being excluded from many more formal areas of public life, women in the Deep South participate in more informal areas of politics through grassroots activism. For example, on 2 September 2016, the Thai government and the Mara Patani agreed on several preconditions for peace talks and for establishing safe zones in the region. The day before the agreement, however, both Buddhist and Muslim women from 23 civil society organization marched throughout Pattani to demand an agreement on safe zones and to encourage the resumption of peace talks.<sup>24</sup> A statement from the Women's Agenda for Peace (PAW) encouraged the Thai Government and Mara Patani to push forward with peace talks despite the obstacles.<sup>25</sup>
56. The voices of local women and women CSOs is often ignored. When women in the Deep South became vocal about the need to establish safety zones in the preparation for the 2015-2016 peace process, the male dominated CSOs often showed some resistance to this initiative.

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<sup>23</sup> Sheikhu Islam Office is the office of Chula Ratchamontri-Thailand's most senior Islamic spiritual leader appointed by the King.

<sup>24</sup> "Thai govt, Deep South insurgents reach agreements crucial for official peace talks", *Prachatai*, 2 September 2016. Available at <https://prachatai.com/english/node/6533>

<sup>25</sup> *Ibid.*

*Attacks against Women's Human Rights Defenders*

57. Online propaganda campaigns that are designed to discredit human rights defenders are common. Pornpen Khonkachonkiet, the Director of the Cross Cultural Foundation, Anchana Heemmina, the founder of Duai Jai Group, and Angkhana Neelaphaijit, member of the NHRC, have been the targets of online campaigns to discredit their work in the region. For example, in online articles, writers have made serious accusation that Ms. Pornpen is involved with the separatist movement and accusing her of “discrediting” the authorities when she called for an end to the arbitrary arrest and detention of students from the Deep South. Photoshopped pictures of Pornpen Khonkachonkiet that are intended to discredit her have also appeared on various websites and Facebook pages. In one such instance, an edited picture of Pornpen Khonkachonkiet with the title “Uncover ”the Extremist Organization” Helping Perpetrators.”, aims at personally attacking her. The article denigrates her human rights work and damages her reputation; quote “*Are you “Thai”? People like you are a burden to this country (Thailand), and your existence is worthless. It never benefits the society. You deserve to die.*”
58. Recently, another online harassment against both WHRDs emerged in relation to the case of an alleged abduction in the Deep South. The article was titled “*Shameful! Anchana – Pornpen: Never Change Their Behaviors*” contains offensive speech that directly discredits their work and damages their reputation. Clearly these online propaganda campaigns and defamatory statements are abhorrent and create a climate of official and public hostility against WHRDs and human rights work in Thailand. Yet the allegations are not taken seriously by the government.
59. Human rights defenders have also been subjected to harassment and intimidation by officials. Anchana Heemmina, the founder of the Duay Jai Group, contributed to the publication of a 2015 report that documented cases of alleged torture by Thai authorities in the Deep South. On 19 January 2016, three unidentified men in green uniforms came to the clothing shop owned by Anchana Heemmina in Saba Yoi District market in Songkhla province. They were looking for Anchana Heemmina, but she was not there. On 19 February 2016, a group of ten unidentified men in green uniforms came to the house of Anchana Heemmina. Anchana Heemmina’s mother, a 75-year-old-woman, was at home alone at the time. Without presenting an official warrant, the men began to question the mother of Anchana Heemmina about her daughter’s work and personal life. They then proceeded to take pictures of the house. Before leaving, the men told the mother to warn Anchana Heemmina not to use social media platforms, such as Line chat or Facebook, for communication.
60. Human rights defenders working on issues in the Deep South face persecution when conducting their work. Human rights defenders are often the targets of *strategic lawsuits against public participation* (SLAPP suits), that are designed to silence, censor, and intimidate human rights defenders. In July 2016, the military charged three human rights defenders—Pornpen Khongkachonkiet, Somchai Homloar, and Anchana Heemmina—under the criminal defamation provisions of the Penal Code and the Computer Crime Act. These human rights defenders were charged for publishing a report that documented 54 cases of alleged torture and instances of other ill-treatment by Thai authorities in the Deep South that have

occurred since 2004.<sup>26</sup> Although the criminal defamation charges were eventually dropped in March 2017,<sup>27</sup> this type of SLAPP suit is indicative of the challenges that human rights defenders face when working in the Deep South.

### *Recommendations*

61. The government must ensure that the national strategy action plan is pursuant to the measures of Security Council 1325 (2000). With efficiency, the government must include and empower the participation of women in peace process and policy making in all sectors, at all levels, by promoting positive attitudes towards gender equality in politics.
62. The government should establish coordination centers to monitor policy and strategies on women, peace promotion, and security.
63. The government must address the specific violations WHRDs experience and undertake preventive measures to avoid future abuse. The government must stop the practice SLAPP. The government must develop new mechanisms for more effective accountability of both state and non-state actors for violation against WHRDs, online and off-line.

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<sup>26</sup> “Thailand: Stop using defamation charges against human rights defenders seeking accountability for torture” International Commission of Jurists, 27 July 2016. Available at <https://www.icj.org/thailand-stop-use-of-defamation-charges-against-human-rights-defenders-seeking-accountability-for-torture/>

<sup>27</sup> “Military drops charges against human rights defenders” *Prachatai*, 7 March 2017. Available at <https://prachatai.com/english/node/6982>.

## Article 12 - Equal Access to Healthcare Services

### *Mental Health Issues*

64. Since 2012 and with the support of the UNVTFV, the CrCF, together with Duayjai and HAP, have documented at least 92 alleged cases of torture that occurred between 2004-2013. In 2014, the project documented another 30 cases in the Deep South and 10 cases of torture allegation in the northern border region. Torture is still under documented, as currently there is not an adequate human rights monitoring mechanism in place.
65. The effects of torture go far beyond the original pain and physical damage received by a victim. Generally, it is considered that the victim will suffer from Post Traumatic Stress Disorder (PTSD); however, PTSD does not adequately describe the magnitude and complexity of the effects that torture can have on a victim. Furthermore, the effects of torture go beyond the original victim, affecting families and local communities. Torture is known to have deleterious effects on the victim's family. There is a common reaction from torture survivors to show dissociation and atypical behaviours,<sup>28</sup> which often manifests in the form of higher levels of anger and violence towards their family members.<sup>29</sup> There have been observations of victims of torture treating their children in similar ways to their own treatment during detention.<sup>30</sup>
66. During seminars in the Deep South of Thailand, CrCF found that many of the family members of torture victims also suffered personally from mental health issues—such as stress, depression, anxiety and mild forms of PTSD.<sup>31</sup>

### *Recommendations*

67. The government must undertake appropriate measures to provide remedies and psychological assistance to victim of violence and their family members. More resources for mental health service must be provided, and the government should tailor these services for the Muslim population.

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<sup>28</sup> Information taken from the Istanbul Protocol, Chapter VI Section A, Sub-Section 2f, Paragraph 244. For a link to the Istanbul Protocol please see footnote 69.

<sup>29</sup> Campbell T. Psychological assessment, diagnosis, and treatment of torture survivors: a review. *Clin Psychol Rev* 2007; 27: 628–641

<sup>30</sup> Observed by Dr. Mahmud Sehwal in Palestinian families. Referred to in his paper 'Responding to continuing traumatic events', under section: Our services. A copy of this paper can be found at: <http://www.dulwichcentre.com.au/palestinian-perspectives-on-trauma-and-torture.pdf>

<sup>31</sup> A workshop held by HAP and CrCF on 13-14 October 2014, and a seminar held by CrCF on 1-2 December 2014, both attended by the author of this paper.

## Article 15 - Equality before the law

### *Access to Justice and the Application of Islamic Law*

68. A 2012 report by the International Commission of Jurist (ICJ) highlighted many of the barriers that continue to impede access to justice for women in the Deep South. As noted by the ICJ report, “there is an absence of legal certainty and meaningful oversight of the application of Islamic law in the provinces in relation to family and inheritance matters.”<sup>32</sup> As a result, women in the Deep South continue to face legal discrimination, particularly as they relate to issues concerning civil, family, and inheritance law.
69. One of the issues has been the discretionary, and at times, discriminatory application of Islamic law. Since 1946, Thai law has stipulated that in the Southern Provinces of Pattani, Narathiwat, Yala, and Satun, under certain conditions, Courts of first-instances can apply Islamic family and inheritance law instead of applying the relevant provisions within the Thai Civil & Commercial Code.<sup>33</sup> In order for Islamic law to be applicable, the case must be related to a civil matter pertaining to family or inheritance, and both parties in the case must be Muslim. Under this system, Datoh Justices join the Court of first-instance, and provide the court with an interpretation of relevant Islamic law principles and their application to the details of the particular case. As noted in the ICJ report, one of the primary issues regarding the application of Islamic law in the Deep South is that there is a lack of clarity over what constitutes Islamic law and how it should be applied. Indeed, the ICJ notes that “there does not appear to exist an official codification of the relevant tenets and rules of Islamic law and the way in which they will be interpreted and applied in the provinces.”<sup>34</sup> Consequently, the interpretation and application of Islamic law is determined in an overly discretionary manner, broadly based on the interpretation by the particular Justice Datoh.<sup>35</sup> The practice, therefore, contravenes essential legal principles regarding the rule of law and legal certainty.
70. Regarding women’s rights, this problem is exacerbated because “distinctions between what is required as a matter of law and what is simply a prevailing religious or social approach to a particular issue appear to be blurred in some instances.”<sup>36</sup> For example, regarding domestic abuse or marital rape, many women who spoke with the ICJ were unaware of legal remedies that would be available under the Thai Criminal Code or the Domestic Violence Protection Act.<sup>37</sup> Indeed, community leaders and justice officials often treat such issues as a “family matter” and prevailing religious interpretations of marital rape appear to be that women cannot refuse to have sex with their husbands.<sup>38</sup>

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<sup>32</sup> “Women’s Access to Justice: Identifying the Obstacles & Need for Change, Thailand” International Commission of Jurists (Geneva, 2012), p. 45. Available at <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2012/08/ICJ-JPF-Report-Thailand-Womens-Access-to-Justice-English.pdf>

<sup>33</sup> The Act of Implementation of Islamic laws in Pattani, Narathiwat, Yala and Satun Provinces B.E. 2489 (1946), Section 3

<sup>34</sup> “Women’s Access to Justice: Identifying the Obstacles & Need for Change, Thailand” International Commission of Jurists (Geneva, 2012), p. 47. Available at <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2012/08/ICJ-JPF-Report-Thailand-Womens-Access-to-Justice-English.pdf>

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*, p. 48

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

71. Regarding issues such as divorce and inheritance, different rules apply to men and women. For example, the ICJ reports that many women who in the Deep South do not directly file an application for divorce themselves. Instead, they will ask male relatives to approach their husbands for a divorce, they will pay their husbands for a divorce, or they will try to provoke their husbands into divorcing them. The rationale for this, as noted by the ICJ, is “because prevailing interpretations grant men a unilateral right to pronounce a divorce, whereas women must seek dissolution of marriage in Court and only with reference to certain limited grounds.”<sup>39</sup> Similarly, many women are also denied equal inheritance rights, which can place additional hardships on women who recently lost a male relative as a result of death or enforced disappearance.<sup>40</sup>

### *Recommendations*

72. The government must ensure that women’s rights are respected and that there is accountability for abuses for families and communities. There must adequate remedies for the victims and an effective legal aid system that is sensitive to violations against women and girls.
73. Together with local women’s CSOs, the government should disseminate educational material on the legal rights of women. The government should ensure that both women and men are informed of the legal remedies available to women, both the remedies available according to Islamic law and those available under the Thai Criminal Code or the Domestic Violence Protection Act.

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<sup>39</sup> *Ibid*, p. 47

<sup>40</sup> *Ibid*.