

Highlights of Thailand's implementation of recommendations and voluntary pledges under the second cycle of the Universal Periodic Review 2016-2018 (Mid-term update)

1. Introduction

1.1 Thailand presented its second national report under the Universal Periodic Review (UPR) at the 25th Session of the UPR Working Group on 11 May 2016. The report of the Working Group was adopted at the 33rd Session of the Human Rights Council (HRC) in September 2016. Thailand received a total of 249 recommendations. Of these, 181 have been accepted at the UPR Working Group meeting; 6 were accepted at a later stage; and 62 have been noted. In addition, Thailand has made 7 voluntary pledges, including the pledge to submit a mid-term update on the implementation of the accepted recommendations.

1.2 Subsequently, the National UPR Committee, comprising all relevant government agencies and human rights experts, held a series of meetings to formulate a UPR action plan to guide the implementation of the recommendations and voluntary pledges under the 2nd Cycle of the UPR. The Cabinet adopted the national UPR action plan on 31 January 2017 and tasked all relevant agencies with implementation, while also taking note of Thailand's voluntary pledge to present a mid-term update in 2019.

1.3 Thailand's national report for the second cycle of the UPR and recommendations as well as voluntary pledges are available for public access in both English and Thai, in print and online. As part of Thailand's awareness-raising efforts on the UPR process and on human rights as a whole, the national report, the recommendations and the UPR action plan of the second cycle were compiled, published, and disseminated - also online - to concerned agencies, civil society partners, and the general public. UPR recommendations have been continuously discussed in related workshops and meetings, both in Bangkok and other provinces, as well as with CSO partners. The National UPR Committee continues to meet regularly to follow up on the progress of work on the UPR National Action Plan.

2. Methodology

2.1 The concerned agencies have been invited to present oral and written updates and progress on the implementation of the UPR action plan to the National UPR Committee on a periodic basis. In the process of drafting this mid-term update, the Ministry of Justice conducted seminars for civil society and local authorities in Chiang Mai, Songkhla and Bangkok to follow up on the implementation and identify region-specific challenges on the ground. The data from these processes has fed into the current mid-term update.

2.2 The Royal Thai Government has decided to focus this mid-term update on key areas in which notable progress has been made since Thailand's national report for the second cycle of the UPR in 2016.

Updates	Relevant Recommendations/ Voluntary Pledges
<p>system, government administration, the law, the justice system, the economy, natural resources and the environment, public health, mass media, information technology, the society, energy, and corruption prevention.</p> <p>3.1.5 As the 3rd National Human Rights Plan (2014 – 2018) has come to completion, the Ministry of Justice, as the focal point, is in the process of a final evaluation on the Plan’s implementation. Once the draft 4th National Human Rights Plan (2019 – 2023) has been revised and considered by relevant agencies, it will be presented to the Cabinet for approval. The draft Plan has included media and human rights defenders as new target groups for specific protection and promotion of their rights.</p> <p>3.1.6 Furthermore, to mainstream human rights in all policies, on 21 November 2017, the Royal Thai Government designated human rights as a national agenda for 2018 and 2019, linking it with the Thailand 4.0 Policy and our efforts to achieve sustainable development.</p> <p>3.1.7 Moving towards the general elections scheduled for 24 March 2019, the NCPO issued NCPO Order No.22/2561 on 11 December 2018 to repeal 9 preceding NCPO Orders. In effect, this NCPO Order allows for the resumption of political activities and lifts the restriction on political gatherings of 5 persons or more, among other things.</p>	<p>158.51 – 158.54</p> <p>158.132, 158.141</p>
<p>3.2 Institutions</p> <p>3.2.1 The Organic Act on the National Human Rights Commission, which came into force on 13 December 2017, reflects the country’s efforts to revitalize the strength of this key human rights mechanism in accordance with the Principles relating to the Status of National Institutions (the Paris Principles). In drafting the Organic Act, the Constitution Drafting Committee aims to address the drawbacks of the previous Act, particularly on the issues of composition and the guarantees on the independence and pluralism of the Commission.</p> <p>3.2.2 The Government has set up the National Committee on Human Rights since December 2018. The Committee, chaired by Deputy Prime Minister and Minister of Justice and comprising government agencies and civil society representatives as Committee members, is tasked to push forward the National Agenda on Human Rights, the National Human Rights Plan and other related matters in a cross-cutting and integrated manner.</p>	<p>158.38 – 158.48</p> <p>158.48</p>

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<p>3.3 International Human Rights Treaties</p> <p>3.3.1 On 7 October 2016, Thailand notified the Secretary-General of the withdrawal of the reservation to article 4 made upon accession to the Convention on the Elimination of All Forms of Racial Discrimination (CERD).</p> <p>3.3.2 On 28 January 2019, Thailand became the 49th country to join the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, having deposited the instrument of accession with the World Intellectual Property Organization. The Treaty will enter into force for Thailand on 28 April 2019.</p>	<p>158.4</p> <p>158.1, 158.3, 161(a)</p>
<p>3.4 Prevention and Suppression of Torture and Enforced Disappearances</p> <p>3.4.1 Thailand signed the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) on 9 January 2012 and the Cabinet as well as the National Legislative Assembly approved on 24 May 2016 and 10 March 2017, respectively, in principle to ratify the ICPPED. Thailand will be able to accede to the ICPPED once the draft Act on Prevention and Suppression of Torture and Enforced Disappearance is passed as law. After the National Legislative Assembly requested the cabinet to further review the draft Act in March 2017, the revised draft Act was resubmitted to the National Legislative Assembly for consideration on 20 December 2018.</p> <p>3.4.2 While the draft Act on Prevention and Suppression of Torture and Enforced Disappearance is under consideration and review, the Prime Minister has issued Order No. 131/2560 dated 23 May 2017 to establish the National Committee for Managing Cases Relating to Torture and Enforced Disappearance, chaired by the Minister of Justice and comprising 13 representatives from related agencies as Members, in order to address alleged cases of torture and enforced disappearance and to prevent future occurrences of such cases. The Committee is supported by four sub-committees on (1) follow-up and monitoring, (2) assistance and remedy, (3) prevention and training and (4) case screening. Any public officer who is found to have been involved in torture and/or enforced disappearance will be prosecuted in accordance with the law.</p>	<p>158.3, 158.11, 158.12, 158.16 - 158.20, 158.30, 158.32, 158.33, 158.76 – 158.79</p>
<p>3.5 Birth registration, Efforts to address Statelessness</p> <p>3.5.1 On 25 January 2019, the Parliament passed an amendment to the Civil Registration Act, proposed by</p>	<p>158.3, 158.56, 158.57</p>

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<p>the Ministry of Interior, to remove the criminal sanction of fining those who register births after the period prescribed by law.</p> <p>3.5.2 Since 2008, the Civil Registration Act provides registration for all stateless persons born in Thailand and the Nationality Act enables them to apply for Thai nationality under conditions designated by the Cabinet. As the most recent step to prevent children of foreign or stateless parents from becoming persons without legal status or illegal migrants, the Cabinet approved two resolutions on 7 December 2016 to (1) grant foreign children born in Thailand the right to legally stay in Thailand in order to prevent them from being criminalized as illegal migrants and (2) provide a legal pathway for foreign children born in Thailand to apply for Thai nationality.</p>	
<p>3.6 Business and Human Rights</p> <p>3.6.1 Thailand has made efforts to drive forward the implementation of the UN Guiding Principles on Business and Human Rights, highlights of which include:</p> <p>(1) On 31 May 2017, the National Human Rights Commission, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Commerce, the Federation of Thai Industries, the Thai Bankers Association, the Thai Chamber of Commerce and the Global Compact Network of Thailand jointly signed the Memorandum of Cooperation to implement the UN Guiding Principles on Business and Human Rights in Thailand to jump start the work ahead of the National Action Plan;</p> <p>(2) Thailand is in the final stage of drafting the National Action Plan on Business and Human Rights. At the initial stage, the Committee to Prescribe, Prepare, Monitor and Analyze the Implementation of the National Action Plan was established in November 2016 to start the drafting process. Subsequently, the Royal Thai Government held a few rounds of public consultations in all regions of the country to understand region-specific contexts of challenges and needs on business and human rights which are incorporated into the drafting process. The current draft National Action Plan focuses on 4 priority areas: (1) labour, (2) land, environment and natural resources, (3) human rights defenders, and (4) cross-border investment and multi-national enterprises. In addition, the implementation of the NAP will be supported by, among others, Thailand and OECD co-operation programme in promoting and enabling Responsible Business Conduct (RBC), with the two-year RBC cooperation work plan</p>	<p>158.49, 158.61, 161(e)</p>

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<p>being developed.</p> <p>3.6.2 Upon the invitation by the Royal Thai Government, the Working Group on the issue of human rights and transnational corporations and other business enterprises conducted a country visit from 26 March to 4 April 2018. The elements of the Working Group’s end of mission statement have been taken into account in the drafting of the National Action Plan on Business and Human Rights. At the end of the visit, the Working Group issued a statement commending the Royal Thai Government for the political will in the increasing awareness of the business sector on human rights, measures to promote the rights of those in vulnerable situations, improved access to remedy, among others. Some challenges raised include the awareness of the private sector and general public on the UN Guiding Principles, measures to prevent human rights violations in transnational business investments, rights of local communities, environmental assessment mechanisms for large-scale investment projects, protection of human rights defenders, and the effectiveness of complaint mechanisms. The Working Group will present the official mission report to the 41st session of the Human Rights Council in June 2019.</p>	<p>158.49, 158.61</p>
<p>3.7 Land Rights</p> <p>3.7.1 The Royal Thai Government attaches importance to economic empowerment through the allocation of land for production. Thus, the Government has been allocating public land, national forests, and state property land to people living in poverty and those who without land tenure. Furthermore, on 17 February 2019, the NLA approved the Community Forest Act B.E. which will provide a platform for local communities to take active roles in the decision-making process on the conservation and exploitation of their shared forest land and resources.</p> <p>3.7.2 The Enhancement and Conservation of the National Environmental Quality Act (No. 2) B.E. 2561 (2018) which revised the requirements of environmental impact assessments (EIA) has been in effect since 18 July 2018. Pursuant to Section 58 of the Constitution, the Act specifically requires public participation in the EIA process. In parallel, the National Committee for Sustainable Development (CSD) is developing plans and guidelines on strategic environmental assessments (SEA) which would integrate environmental considerations into the Government’s decision-making process. The Office of the National Economic and Social Development Council is currently discussing with interested</p>	<p>158.181</p> <p>158.181</p>

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<p>partners, including the Office of the National Water Resources and the Asian Development Bank, the possibilities of conducting SEA Pilot Projects in identified river basins in the country.</p>	
<p>3.8 Labour Rights and Efforts to Address Trafficking in Persons</p> <p>3.8.1 Thailand ratified the International Labour Organization’s Discrimination (Employment and Occupation) Convention, 1958 (C111) on 13 June 2017 and the Protocol of 2014 to the Forced Labour Convention, 1930 (P29) on 4 June 2018. On 4 December 2018, the Cabinet passed the draft Royal Decree clarifying the definition of “forced labour” under the Act on the Prevention and Suppression of Trafficking in Persons to be more in line with the P29. Furthermore, on 30 January 2019, Thailand ratified the ILO Work in Fishing Convention No. 188, 2007 (C188). Ministry of Labor has also drafted the Work in Fishing Bill which would set out provisions to domestically implement obligations under the C188.</p> <p>3.8.2 Thailand established special anti-human trafficking units across the three major agencies for prosecution to improve the effectiveness and expedite the prosecution of trafficking cases, i.e., the Royal Thai Police, the Office of the Attorney General, and the Court of Justice. The Government has also continuously increased the budget for the fight against human trafficking, amounting to 116 million USD for fiscal year 2018, an increase of 13.5 percent from 2017. The 3rd amendment to the Prevention and Suppression of Human Trafficking Act, B.E. 2551 (2008) in 2017 revised Articles 4 and 6 of the Act, including on the definition of “wrongful exploitation”, to be more in line with Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.</p> <p>3.8.3 Since 2015, Thailand has declared the fight against illegal, unreported and unregulated fishing as a national agenda. As a result, Thailand modernized 3 pieces of legislation governing fishing activities and fishing fleets and enacted at least 138 effective implementing regulations. To strengthen the protection of labour in the fisheries sector, Thailand has conducted the trilateral “Ship to Shore Rights” project in a trilateral cooperation with the International Labour Organization and the European Union to prevent and reduce unacceptable forms of labour in the fisheries</p>	<p>158.1, 158.3, 158.25, 158.99, 158.108, 158.175 – 158.178</p> <p>158.3, 158.23, 158.99, 158.100 - 158.101, 158.108 – 158.118, 158.175 – 158.178</p> <p>158.3, 158.99, 158.108, 158.110, 158.175 – 158.178</p>

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<p>and seafood manufacturing industry. The baseline report for the “Ship to Shore Rights” project, which was launched in February 2018, indicated that the overall labour situation in Thailand has greatly improved, with the marked reduction of physical harm and child labour. Moreover, in 2018, the Ministry of Labour has appointed an additional 275 labour inspectors and, by virtue of the Ministry of Labour’s Order No. 138/2561 of 3 April 2018, strengthened the mandate of labour inspectors in the fisheries sector. The Seafood Task Force is an example of the collaboration among Thai seafood processors, producers, buyers, and retailers as well as NGOs and government representatives for the purpose of addressing labour issues and illegal fishing in seafood supply chains. The Task Force reflects Thailand’s commitment to tackle the issues sustainably and keep supply chains clean through multi-stakeholder engagement.</p> <p>3.8.4 The Royal Thai Government, in collaboration with the International Labour Organization (ILO), Workers’ Organization and Employers’ Organizations, is finalising the ‘Decent Work Country Programme (DWCP)’, which encompasses all key areas of good employment with its main purpose being to promote decent work for all. The MoU on DWCP in Thailand 2019-2021 is scheduled to be signed among the four parties in April 2019. Through the MoU, employees, Thai and migrant alike, will be better protected and employers can also benefit from the resultant increased productivity and a more sustainably conducted business.</p>	<p>158.175 – 158.178</p>
<p>3.9 The Justice System</p> <p>3.9.1 Thailand revoked the Prison Act of 1936 and launched the new Corrections Act of 2017, which took effect in May 2017, with a view to reforming the penitentiary system in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules).</p> <p>3.9.2 The Justice System Reform Plan of 6 April 2018 strives to enhance various aspects of the judicial system, including improvement of conditions in prisons and detention centers across the country. On 18 July 2017, to commemorate the Nelson Mandela International Day, the Department of Corrections under the Ministry of Justice, and the Thailand Institute of Justice (TIJ) announced collective commitments to drive forward the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson</p>	<p>158.3, 158.34, 158.35, 161(b)(iii)</p>

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<p>Mandela Rules) towards full and effective implementation in the country. The Department of Corrections has commenced the project at the Thonburi Remand Prison as a pilot penitentiary to fully implement the Nelson Mandela Rules, with a plan to expand the pilot project to the Bangkok Remand Prison and the Uthai Thani Provincial Prison in the budget year 2019. This is in addition to the 12 penitentiaries in different parts of the country which are piloting the implementation of the Bangkok Rules.</p> <p>3.9.3 Recognizing the problem of overcrowding in places of detention under the supervision of the Department of Corrections, the Ministry of Justice is currently drafting a ministerial regulation under the 2017 Corrections Act to specify six alternative criminal sanctions to imprisonment, including (i) intermittent detention, (ii) detention during specified hours, (iii) detention within the specified place of detention, (iv) community service, (v) travel restrictions in accordance with the Section 89/2 of the Criminal Procedure Code, and (vi) any other sanction specified by the Department of Corrections.</p> <p>3.9.4 On 22 January 2019, the Ministry of Health, the Department of Corrections and the National Health Security Office concluded an MoU to improve the health service system for prisoners. This is in accordance with the Cabinet resolution of 17 November 2015 which requested relevant authorities to assign health personnel from local hospitals to provide services in prisons, establish a special ward for prisoners requiring treatment outside of prison facilities, and improve the health services system for prisoners.</p> <p>3.9.5 On 1 March 2018, the Court of Justice and the Department of Probation introduced the Electronic Monitoring (EM) system as an alternative to detention for prisoners who have been granted temporary release instead of posting bail money.</p> <p>3.9.6 To facilitate access to justice, on 1 November 2018, the Court of Justice launched the “e-Notice System” to allow online filing of court documents such as written pleadings and notices and to announce schedules for deliberations. The launch aims to use technology to facilitate access to justice including by saving time and reducing the financial burden in the correspondence of documents. Furthermore, the Court of Justice maintains a list of foreign language interpreters for any court wishing to examine witnesses who have difficulty communicating in Thai. On 24 February 2016, the Court of Justice officially launched</p>	<p>158.80, 158.179</p> <p>158.145, 158.151, 158.152, 158.154</p> <p>158.80</p>

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<p>the E-Justice Conference Center (EJCC) to provide an additional method for supplementing the traditional in-court witnesses and interpreting services through the use of the videoconferencing system. This would help expedite judicial proceedings by reducing travel time and expenses for those who need to appear in court as well as protect minors and other vulnerable witnesses from confrontation with the suspect.</p> <p>3.9.7 The NLA approved the draft Mediation Act on 8 February 2019 as proposed by the Ministry of Justice. Once in effect, the Mediation Act will provide an alternative dispute settlement mechanism for civil claims with relatively low monetary value and certain criminal claims. This alternative method will save time and money for parties to the dispute and at the same time reduce the caseload of Courts.</p> <p>3.9.8 On 21 January 2019, 7 Thai agencies concerned signed an MoU on the Determination of Measures and Approaches Alternative to Detention of Children in Immigration Detention Centers (IDCs). The MoU aims to determine responsibilities and provide common guidelines to integrate procedures on non-detention of migrant children under the age of 18. Instead of staying in IDC, the children and their mothers or guardians will be put either under the care of the Ministry of Social Development and Human Security, private organizations, or civil society organizations while waiting for long-term solutions.</p> <p>3.9.9 As an effort of the Court of Justice to establish an overarching tool to protect the right to freedom of expression against Strategic Litigation against Public Participation (SLAPP), a new Section 161/1 of the Criminal Procedure Code was proposed to provide the court with the power to dismiss any criminal case at the filing stage of the lawsuit if it appears to the court that the cause of action arises from the ill intention to harass or take advantage over a person or to gain any unlawful benefits or to achieve any corrupt underlying objectives. On 4 December 2018, the Parliament passed this amendment to the Criminal Procedure Code which is currently pending the announcement in the Royal Gazette to be effective. In parallel, the Court of Justice also proposed a new Section 165/2 of the Criminal Procedure Code to allow the accused to present legal and evidentiary arguments during the preliminary examination of the Court where they previously could not. Section 165/2 also enables the Court to play a more active role by having the power to summon witnesses and</p>	<p>158.80</p> <p>158.22, 158.119 – 158.123</p>

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<p>evidence proposed by the accused as the Court’s witness. The amendment has been promulgated in the Royal Gazette on 19 February 2019.</p> <p>3.9.10 The Ministry of Justice has proposed an amendment to Articles 73 and 74 of the Criminal Code to raise the minimum age of criminal responsibility from 10 to 12 years in order to comply with international standards. The proposed amendment is currently under review by the Cabinet.</p> <p>3.9.11 The Ministry of Social Development and Human Security is in the process of proposing the amendment to the Civil and Commercial Code to increase the minimum age of marriage from 17 to 18 years for both boys and girls to the Council of State. Meanwhile, on 29 November 2018, the Central Islamic Council of Thailand issued a regulation to ensure that provincial Islamic committees or mosques may not grant permission for marriage to a person under the age of 17, unless a written letter of consent from an Islamic court or parents is presented to the office of the provincial Islamic committee or the local police station. This regulation - with a translation in Bahasa Melayu - has been disseminated to provincial Islamic committees and mosques throughout the country.</p>	<p>158.3, 158.125 – 158.128, 161(b)(i)</p> <p>158.3, 158.129</p>

4. Challenges and the Way Forward

4.1 Since 2014, the Royal Thai Government has focused on undertaking national reforms in wide-ranging areas from politics and laws to policies and institutions. As a result, a large number of laws have been passed and outdated laws revised. The first challenge for Thailand is, therefore, to ensure that implementing government agencies are able to keep up with new rules and laws. This means that a sufficient budget and number of personnel must be allocated to them; and that capacity-building must also be provided to such personnel so that they can effectively carry out their duties under the new laws and policies. The second challenge concerns enforcement of laws, in particular those that require concerted efforts among various government offices to effectively enforce. For instance, laws in the area of human rights are a challenge because this is a cross-cutting issue with many interlinked aspects. Indeed, interagency coordination is one of the key challenges faced by many governments. The third challenge concerns the need for integrated and disaggregated data, which are necessary for follow-up and evaluation of human rights efforts.

4.2 From the seminars with civil society and local authorities, some pertinent issues of concern include: (i) space for political activities (ii) child protection, corporal punishment, violence and sexual harassment of children, juvenile justice; (iii) domestic violence; (iv) prevention of human trafficking, particularly through economic empowerment; (v) access to justice, accountability of government officers in cases of human rights violations; (vi) land rights, allocation of natural resources, negative impacts of businesses to local

communities; (viii) rights of migrant workers and migrant children, including access to education and healthcare; (viii) effective enforcement of laws on statelessness, legal recognition and birth registration; and (ix) the social reintegration of ex-prisoners.

4.3 The Royal Thai Government is aware of the aforementioned challenges and has taken them into account in the drafting of the 4th National Human Rights Plan. On the institutional front, the National Committee on Human Rights will serve as a platform for the effective coordination among various agencies as well as with members of civil society.
