



กรมคุ้มครองสิทธิและเสรีภาพ



1st National Action Plan on Business and Human Rights (2019–2022)

(Summary)

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Background

**16 June
2011**



The United Nations Human Rights Council Resolution 17/4 adopted the United Nations Guiding Principles on Business and Human Rights (the UNGPs).

**December
2014**



UN Working Group on Business and Human Rights provided recommendations that each country shall have a National Action Plan on Business and Human Rights (NAP) by using the UNGPs as the foundation for the draft.

**11 May
2016**



During the 25th Session of the 2nd Cycle of the Universal Periodic Review (UPR) process for Thailand, which was held in Geneva, the Thai government made a voluntary pledge and agreed to the recommendation by Sweden for Thailand to develop a national action plan on business and human rights, and promote the UNGPs implementation.

**31 January
2017**



The Cabinet of Thailand has appointed the Rights and Liberties Protection Department, Ministry of Justice, to be the key focal agency to develop a national action plan on business and human rights, and promote the UNGPs implementation.

The United Nations Human Rights Council Resolution 17/4 of 16 June 2011 adopted the United Nations Guiding Principles on Business and Human Rights (the UNGPs) as a guiding framework for interventions including the prevention of human rights abuses by businesses. The UNGPs mandate that the State shall hold the duty to protect people within its territory and/or jurisdiction from human rights abuse and that the business sector shall respect the foundation of human rights. At the same time, the state and business sector both have the duty to provide remedy to the victims of human rights violations from businesses.

In the implementation of the UNGPs, the UN Working Group on the issues of human rights and transnational corporations and other business enterprises (UN Working Group on Business and Human Rights) provided recommendations that each country shall have a National Action Plan on Business and Human Rights (NAP) by using the UNGPs as the foundation for the draft, and contextualize the NAP on a national level to ensure that it is enforceable and provides solutions to local issues.

During the 25th Session of the 2nd Cycle of the Universal Periodic Review (UPR) process for Thailand, which took place on 11 May 2016, the Thai government made a voluntary pledge to advance human rights principles in the private sector. They also agreed to the recommendation by Sweden for Thailand to develop, approve and implement a national action plan on business and human rights in compliance with the UNGPs. The Cabinet of Thailand has thus appointed the Rights and Liberties Protection Department, Ministry of Justice, to be the key focal agency to be responsible for developing NAP and push forward its implementation.

The drafting process

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1

Compiling

information on the situation of business and human rights at the local level.

2016 – 2017

2

Drafting

and conducting the consultation on the National Action Plan on Business and Human Rights (round one).

2017 – 2018

3

Conducting

the consultations on the National Action Plan on Business and Human Rights (round two).

Hosting a series of cluster meetings with various stakeholders including international organizations, the public sector, state enterprises, business sector, and civil society.

Finalizing the draft of the National Action Plan on Business and Human Rights (the final revision of the draft).

Proposing the final revision of the draft to the Cabinet of Thailand to provide opinions and officially promulgate the National Action Plan on Business and Human Rights.

2018 – 2019



The Ministry of Justice through the Rights and Liberties Protection Department drafted a national action plan (NAP) on business and human rights in line with the Guidance on National Action Plans on Business and Human Rights, which the UN Working Group on the issues of human rights and transnational corporations and other business enterprises (UN Working Group on Business and Human Rights) has provided as a guideline for each country. The drafting process in Thailand was under the supervision of the national committee tasked with steering the direction, drafting, and monitoring and evaluation of the NAP. The committee consisted of the Director General of the Rights and Liberties Protection Department (RLPD) as the chairperson and representatives from various agencies as its members. The drafting process can be divided into three phases as follows:

Phase 1 (2016–2017)

Compilation of information on the situation of business and human rights at the local level.

The Ministry of Justice through the Rights and Liberties Protection Department, together with other partners—for example, the Thai representative of the ASEAN Intergovernmental Commission on Human Rights (AICHR), members of the Global Compact Network Thailand, and civil society—conducted regional workshops to gather data on the situation of business and human rights in each region: central (Bangkok), north (Chiang Mai), northeast (Khon Kaen), south (Songkhla) and east (Rayong). The workshops consolidated information in terms of development, problems, challenges and obstacles in order to understand the overall situation in the country and to be used as the foundation for the drafting of the NAP.

Phase 2 (2017–2018)

Drafting and consultation on the National Action Plan on Business and Human Rights (Round One).

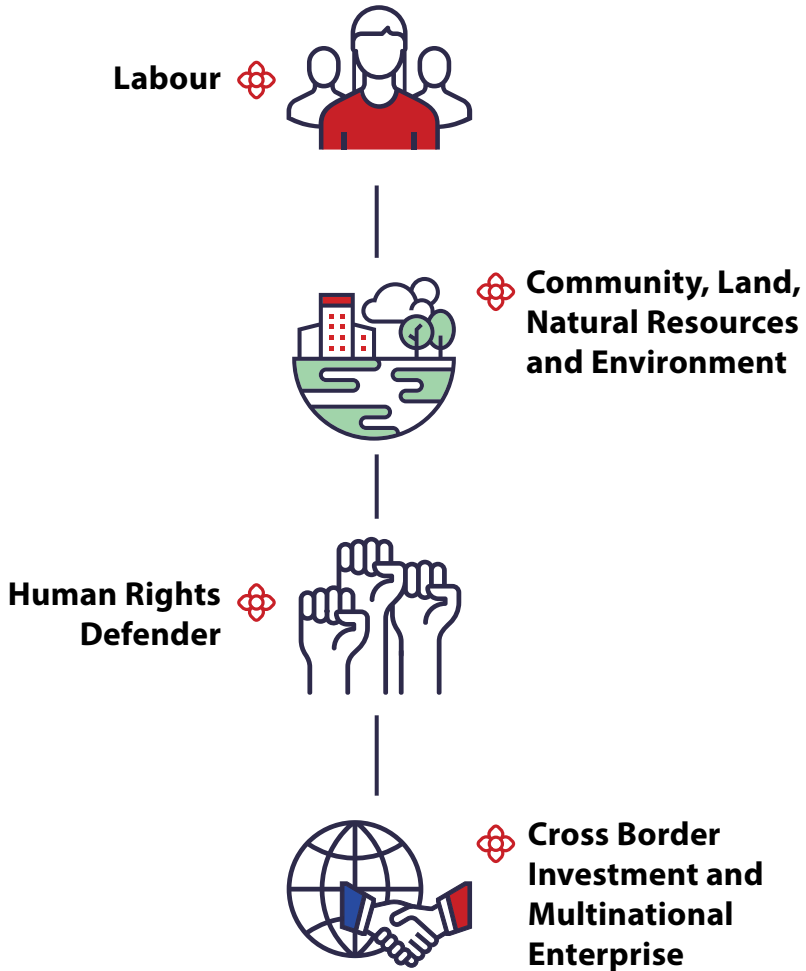
The Ministry of Justice, through the RLPD, together with the Faculty of Law, Thammasat University, developed Zero Draft of the NAP and sought consultation with various stakeholders in five different regions: central (Bangkok), north (Chiang Mai), northeast (Khon Kaen), south (Songkhla), and east (Rayong). The content was then published on a website for the first time between 27 June and 31 July 2018, allowing opportunities for the public to provide feedback and recommendations. Afterwards, the Royal Thai Government invited the UN Working Group on Business and Human Rights for an official mission to Thailand. The UN Working Group provided feedback, comments and recommendations which proved useful for the development of the situation of business and human rights in the country and the drafting of the NAP in accordance with the UNGPs in the context of Thailand. The input, feedback and recommendations from all sectors were taken into account in the draft of the National Action Plan.

Phase 3 (2018–2019)

Consultations on the National Action Plan on Business and Human Rights (Round Two) and the final revision of the draft.

The Ministry of Justice, through the RLPD, in collaboration with the United Nations Development Programme (UNDP), hosted a series of cluster meetings with various stakeholders including international organizations, the public sector, civil society, state enterprises and the business sector to hear opinions from various target groups, and then revised the draft NAP accordingly. Afterwards, the updated draft was circulated among the relevant agencies and published online for the second time between 15 February and 15 March 2019 for final feedback and recommendations. All inputs and recommendations were taken into consideration for the finalization of the draft.

Core content



The 1st National Action Plan on Business and Human Rights (2019–2022) primarily focuses on improving, and addressing urgent and important human rights issues caused by business activities. It has four priority areas:

1. Labour
2. Community, land, natural resources and the environment
3. Human rights defenders
4. Cross-border investment and multinational enterprises

Each area consists of:

- (1) an analysis of the situation;
- (2) challenges as identified by the stakeholders; and
- (3) specific actions for government sectors and expectations of state enterprises and the private sector.

The activities are divided under three pillars to be aligned with the UNGPs. The government agencies have jointly considered the recommendations from various sectors to determine action plans by identifying the responsible agencies, time frames, indicators, and compatibility with the national strategies, Sustainable Development Goals and the UNGPs to ensure effective implementation and monitoring. As for businesses and state enterprises, given their differences in size, business category, resources and readiness, the planned activities reflect the expectations of various sectors towards them to encourage their compliance.



Action plan on labour

Pillar 1: The State Duty to Protect Human Rights (Protect)

- Study the possibility of becoming a party to ILO Conventions 98 and 189.
- Amend laws, regulations, policies and measures related to the promotion and protection of labour rights, social welfare, employment, wage payment, migrant worker management and social insurance.
- Develop a labour management system for both Thai and migrant workers.
- Ensure and monitor a fair recruitment process.
- Develop capacity and promote knowledge dissemination for workers.
- Eliminate discrimination in recruitment and the workplace, including promoting employment and recruitment of people with disabilities, the elderly, women and

ex-convicts, eliminating gender-based discrimination in the workplace, creating understanding of sexual diversity within the private sector, preventing sexual harassment in the workplace, addressing HIV/AIDS issues at work and providing protection for migrant workers.

- Research and develop policies to improve the wage structure to be fairer and suitable for the cost of living.
- Research and develop decent work conditions.
- Promote better access to health services for workers.
- Provide care for workers' children as well as guarantee their rights to education.
- Address human trafficking and forced labour issues by adopting measures used in the fishery sector for other industries.
- Develop remedial measures and provide support to workers replaced by technology.
- Develop a standard management system for all workers in the supply chain.
- Train Thai job seekers before travelling to work in a foreign country, especially in terms of their rights and benefits and protection mechanisms in their respective destination countries.
- Promote the respect of human rights within the private sector, e.g. adopt good labour practice (GLP) in the workplace or require large-scale businesses and those registered in the stock market to produce a human rights due diligence (HRDD) report.

Pillar 2: The Corporate Responsibility to Respect Human Rights (Respect)

- Comply with labour laws and standards and labour-related human rights principles, as well as promote knowledge on these topics among employees.
- Enact measures acknowledging the rights and welfare of employees.
- Establish policies and measures eliminating discrimination and sexual harassment in the workplace.
- Provide a complaint- or grievance-lodging mechanism that is accessible and transparent within the organization. For disputes with workers, a participatory negotiation or mediation process should be encouraged over bringing them to court. If damages have occurred, compensation must be given.

Pillar 3: The State and Corporate Duty to Provide Remedies (Remedy)

- Establish, improve and diversify the complaint and grievance system to be convenient, timely, effective and transparent, as well as build capacity for the responsible officers.
- Promote access to the Employee Welfare Fund for employees.
- Improve the administration of justice by selecting and training migrant workers to act as language coordinators to provide assistance during the judicial process.
- Develop the capacity of officers in charge of the settlement of labour disputes.
- Develop, review and improve the remedy criteria and mechanisms to provide remedies for affected or violated workers.
- Provide assistance and protection to Thai workers working abroad.



Action plan for community, land, natural resources and the environment

Pillar 1: The State Duty to Protect Human Rights (Protect)

- Develop, improve and amend laws related to the management of the environment, land, water sources, climate, communities, factories, agriculture and mining.
- Promote public participation in the management of land, natural resources and the environment that affects them, for example, community forest management, land expropriation, land management and large-scale projects and Special Economic Zones (SEZs) administration.
- Require projects to conduct Environmental Impact Assessments (EIAs) and Environmental Health Impact Assessments (EHIAs) in a participatory manner with the local people and communities in accordance with the laws and regularly monitor and publicly disclose the results. Require projects to conduct Strategic Environmental Assessments (SEAs) to assess the impacts on the environment caused by the implementation of policies, plans and projects (PPP).

- Consider appropriate measures for land expropriation, specify amounts for fair compensation and establish guidelines and measures overseeing the adherence of SEZs and the Eastern Economic Corridor (EEC) to good governance principles and the UNGPs.
- Promote the management, conservation and rehabilitation of natural resources and the environment, with special focus on the participation of all stakeholders and consideration of affected individuals.
- Build capacity to improve production efficiency, support research and development with regards to local wisdom, promote livelihood, develop local ways of life and provide basic knowledge on human rights.
- Improve the social welfare and quality of life for minority and ethnic groups and establish a consultation mechanism for minority and ethnic groups to boost their participation in relevant issues.
- Develop government actions to verify the rights of ownership and land utilization, issue rights certificates, facilitate rural and land development policies, protect the rights of people in affected areas and establish a participatory mechanism to monitor and evaluate the human rights situation.
- Establish a monitoring and investigating mechanism for business operations that violate rights related to land, natural resources and the environment, as well as study ways to promote the respect of human rights within the private sector.

Pillar 2: The Corporate Responsibility to Respect Human Rights (Respect)

- Comply with human rights laws, standards and principles relating to community, land, natural resources and the environment, as well as inspect subsidiary companies and supply chains.
- Inform the public about relevant projects and allow affected people and communities to provide input and comments on project implementation and prepare them for any potential impacts.
- Conduct the EIAs and EHIA's according to the laws and allow affected people and communities to participate in the process.
- Set up channels for complaints, negotiation and remediation for affected people and communities, as well as perform human rights due diligence (HRDD) and publish a HRDD report.

Pillar 3: The State and Corporate Duty to Provide Remedies (Remedy)

- Establish channels for lodging complaints and grievances and promote them to the public.
- Encourage laws, policies, measures and dispute settlement mechanisms that are to be implemented by local agencies.
- Determine punitive measures for business organizations that abuse human rights and develop measures to provide legal assistance to people and communities, as well as increase efficiency in civil and criminal proceedings in cases related to land, natural resources and the environment.
- Study ways to provide financial assistance to affected people and communities, such as establishing a land bank or a hedge fund.
- Develop remedial and rehabilitation measures for people affected by the management of natural resources or the violation of land, natural resources and environmental rights.



Action plan for human rights defenders

Pillar 1: The State Duty to Protect Human Rights (Protect)

- Study how to become a party to international human rights treaties and utilize various human rights mechanisms to protect human rights defenders.
- Amend laws, rules, regulations, policies and measures to protect human rights defenders.
- Establish, review or amend policies, mechanisms and measures protecting human rights defenders and include the protection of human rights defenders in the 4th National Human Rights Plan.
- Create knowledge and understanding on the enforcement of the laws related to the protection of human rights defenders among law enforcers and organize capacity-building activities for communities and human rights defenders.

Pillar 2: The Corporate Responsibility to Respect Human Rights (Respect)

- Comply with the human rights laws, measures and principles related to the protection of human rights defenders.
- Create knowledge and understanding on the work of human rights defenders.
- Work with civil society to prevent, mitigate and remedy impacts on human rights.
- Provide a consultation mechanism with human rights defenders to reduce conflicts and address human rights abuses.

Pillar 3: The state and corporate duty to provide remedies (Remedy)

- Establish an effective grievance and support mechanism.
- Promote a mediation system at every level of the justice process and develop an alternative dispute resolution mechanism.
- Provide assistance to human rights defenders to access justice and enhance the knowledge, skills and capacity of law enforcement officers and witness protection officers.
- Improve the remedy system and measures for victims of human rights abuses and affected people according to international standards.



Action plan on cross-border investment and multinational enterprises

Pillar 1: The State Duty to Protect Human Rights (Protect)

- Amend laws, rules, regulations, policies, measures and practices related to cross-border investment, the Eastern Economic Corridor (EEC) and border economies, to be in accordance with international standards.
- Raise awareness among investors with regard to responsible business conduct that respects human rights throughout the supply chain.

- Encourage foreign investors in Thailand, Thai investors aiming to invest overseas, and business organizations in Thailand to respect and comply with the laws and the UNGPs and require them to perform human rights due diligence (HRDD) before launching any large-scale project.
- Establish and promote preventive measures for Thai entrepreneurs to respect human rights.
- Appoint a central agency to oversee and examine cross-border environmental impacts.
- Encourage state enterprises to comply with the UNGPs and establish approaches to prevent and mitigate risks and impacts on human rights as a good practice for the business sector.
- Consider incentives to encourage the business sector to respect human rights in their business conduct.
- Promote cooperation in knowledge exchange about the advancement of the UNGPs on the regional and international level.

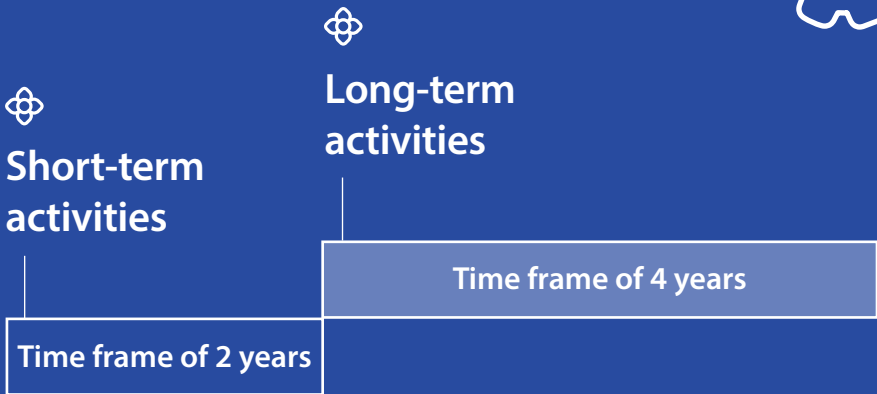
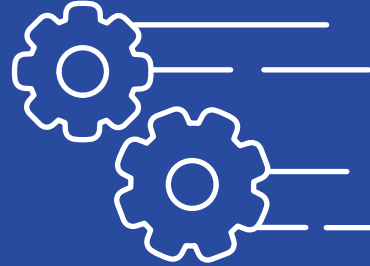
Pillar 2: The Corporate Responsibility to Respect Human Rights (Respect)

- Comply with the human rights laws, standards and principles related to cross-border investment and multinational enterprises, as well as inspect subsidiary companies and supply chains for compliance.
- Promote awareness of international principles and standards regarding human rights and responsible business conduct among affiliates and staff.
- Ensure subsidiary companies and the supply chain abide by laws and avoid human rights violations.
- Perform human rights due diligence (HRDD) and establish a communication channel to inform the public about transparency measures.
- Provide a complaint channel and mechanism and prioritize the settlement of disputes with affected communities through joint negotiation, consultation and remediation as preferred to bringing them to court.

Pillar 3: The state and corporate duty to provide remedies (Remedy)

- Create international cooperation to establish a mechanism to handle complaints.
- Set up a negotiation and mediation process to solve cross-border investment disputes.
- Establish a fund to provide remedies and rehabilitation to affected people.
- Prepare preventive measures for potential impacts.

The implementation of the action plan



The implementation of the 1st National Action Plan on Business and Human Rights (2019–2022) is the responsibility of all relevant agencies to comply with the approaches specified in the action plan, which has been developed with the participation of all stakeholders and approved by the related agencies. The implementation of the NAP involves short-term and long-term activities. Short-term, urgent projects and activities that can achieve outcomes quickly have a time frame of two years. Long-term projects and activities that require time or consistency have a time frame of four years. The formats of projects and activities undertaken by each agency can be adjusted according to their respective mission but, nevertheless, shall be in accordance with the approaches indicated in the NAP.

Benefits for the public sector



Domestic situation

- The NAP confirms the commitment of the government to the respect and promotion of human rights principles.
- Government agencies, state enterprises and businesses have a framework to promote, protect and safeguard human rights to mitigate risks, arising from human rights abuses as a result of business conduct, in an effective and efficient manner.
- Working relationships and networks with and between various sectors are strengthened because the NAP prioritizes participatory negotiation processes, especially with the victims of human rights abuse.

Society

- The NAP enhances safety in Thai society by assures the public that the state, state enterprises and the private sector shall not deprive them of their liberties.
- People have more wealth, security and happiness in life as Thailand guarantees their rights and liberties at the same level as international human rights standards.
- The NAP confirms that Thai society respects, promotes and protects human rights by applying a human rights-based approach in the operations of the public sector, state enterprises, private sector and civil society, which will contribute to the sustainable development of the society as a whole.

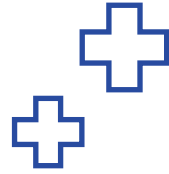
Economy and investment

- The NAP generates incentives for more entrepreneurs to invest in Thailand as a result of boosted trust and confidence because of the protection of human rights in the country.
- It expands the customer base of Thai businesses that integrate the respect of human rights in their operations.
- It enhances the investment environment and stimulates the overall economy at the national level.

International politics

- The NAP improves Thailand's image in the international community by showing that the country is committed to concretely implement an international standard, the UNGPs.
- It highlights the leadership role of Thailand in ASEAN and Asia because Thailand is the first Asian country that has enacted a NAP.

Benefits for the private sector



Organizational management

- Respect for human rights improves the values and ethics of the organization
- It produces a friendly image for the organization among workers, contract partners, communities, investors and other stakeholders.
- It improves the reputation of the organization, boosting business opportunities and creating a competitive advantage.
- It builds trust within the organization, benefiting the recruitment and retention of quality employees.
- It provides a good system for protecting staff, workers and employees, which benefits human resource management.
- It generates trust and confidence, both domestically and internationally.

Risk management

- The NAP reduces risks of intra-organizational conflicts.
- It reduces risks of conflicts between the organization and the community and other stakeholders.
- It reduces risks of conflicts with business partners.
- It reduces the risks of lawsuits.

Market expansion

- The NAP attracts customer groups that value the respect of human rights.
- It attracts investment from domestic and international investors that value the respect of human rights.
- It is an opportunity to promote exports, as the international community will deem the company more trustworthy.

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Advisors

Mr. Ruangsak Suwaree

Director General of Rights and Liberties Protection Department

Mrs. Tussanee Pao-in

Deputy Director General of Rights and Liberties Protection Department

Working Group

Ms. Nareeluc Pairchaiyapoom

Director of International Human Rights Division

Mr. Arnon Youngkun

Justice Officer, Professional Level

Mrs. Cheraporn Siripalang Thummas

Justice Officer, Professional Level

Mr. Poomjai Manmin

Justice Officer, Practitioner Level

Mr. Chempun Chipibhop

Justice Officer, Practitioner Level

Mr. Supanat Kaewlek

Justice Officer, Practitioner Level

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**United Nations Development
Programme Thailand**

Address: 12th Floor United Nations Building
Rajdamnern Nok Avenue, Bangkok 10200

Tel: +662 288 3350

Fax: +662 280 0556

Email: registry.th@undp.org

Website: th.undp.org

**Rights and Liberties Protection Department,
Ministry of Justice**

Address: 5th – 6th Floor Ministry of Justice Building
404 Moo 3, Chaeng Watthana Road
Thungsong-Hong, Laksi, Bangkok 10210

Tel: +662 141 2751-52

Fax: +662 143 9676

Website: rlpd.go.th