

Tool for civil society for effective

follow-up

to the reviews and

holistic utilisation

of the UN Human Rights Bodies

With example of the fundamental freedoms in Thailand

Prepared by
Centre for Civil and Political Rights



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Glossary



- CAT** *Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment OR Committee against Torture*
- CCPR-Centre** *Centre for Civil and Political Rights*
- CED** *Committee on Enforced Disappearance*
- CEDAW** *Convention on the Elimination of All Forms of Discrimination against Women OR Committee on the Elimination of Discrimination against Women*
- CERD** *Committee on the Elimination of Racial Discrimination*
- CESCR** *Committee on Economic, Social and Cultural Rights*
- CPED** *International Convention for the Protection of All Persons from Enforced Disappearance*
- CRC** *Convention on the Rights of the Child OR Committee on the Rights of the Child*
- CRPD** *Convention on the Rights of Persons with Disabilities OR Committee on the Rights of Persons with Disabilities*
- CS** *civil society*
- FU** *follow-up*
- HR** *Human Rights*
- HR Committee** *Human Rights Committee*
- ICCPR** *International Covenant on Civil and Political Rights*
- ICERD** *International Convention on the Elimination of All Forms of Racial Discrimination*
- ICESCR** *International Covenant on Economic, Social and Cultural Rights*
- ICMW** *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*
- LOI** *List of Issues*
- LOIPR** *List of Issues Prior to Reporting*
- NA** *not applicable OR not available*
- TB / TBs** *Treaty Body / Treaty Bodies*
- TBC** *to be confirmed*
- UN** *United Nations*
- UPR** *Universal Periodic Review*
- § / §s** *paragraph / paragraphs*



Table of contents

1. Introduction and how to use this tool	2
2. Follow-up to the reviews and holistic utilisation of UN HR bodies – what you can do	5
2.1. Dissemination of information and awareness raising	5
2.2. Monitoring and assessment	6
2.3. Utilisation of follow-up procedure of UN Treaty Bodies	7
2.4. Holistic utilisation of UN HR bodies	8
3. Follow-up procedures of UN Treaty Bodies	9
3.1. Overview of the UN TBs procedure for follow-up to Concluding Observations	10
3.2. Criteria for the selection of the recommendations for the follow-up procedure	11
3.3. Criteria for the assessment of the follow-up reply / actions	12
4. Recommendations issued by UN HR bodies to Thailand on fundamental freedoms	17
5. Current status of Thailand’s reporting, follow-up and schedule of coming reviews (as of October 2018)	24



1. Introduction and how to use this tool

This publication was prepared by the *Centre for Civil and Political Rights* (CCPR-Centre) in the framework of its project supported by *British embassy Bangkok*. The project aims to assist efforts of stakeholders, in particular civil society, to effectively follow up reviews of Thailand by various United Nations (UN) Human Rights (HR) bodies by enhancing implementation of the recommendations issued by the UN HR bodies to Thailand.

As of now, a lot of information is available for stakeholders, including tools and materials prepared by CCPR-Centre, on how to report to the UN HR Bodies for the review. However, much less is done in relation to *what can be done after the review*, i.e. for the effective *follow-up*, which is without doubt the most crucial stage of the review mechanism of the UN HR bodies. This publication, therefore, seeks to fulfil this gap by providing practical information for civil society to enhance implementation of recommendations including through *utilisation of follow-up procedures* of relevant UN HR bodies.


In order to be as practical as possible, it uses the case of *Thailand* and recommendations dealing with *fundamental freedoms*, as their protection is one of the common human rights challenges faced in many countries. At the same time, information provided and basic strategies shared in this tool *can be applied for other issues* and/or *other countries*.

Another key element of this tool is that it provides ideas and models for the *holistic utilisation of UN HR Bodies*. Each UN HR Body has its focus and strengths. Through years of work of the CCPR-Centre, it has been empirically proven that combining the opportunities and results of the reviews by different UN HR bodies can make bigger and more tangible impact on the ground. For example, when thinking about fundamental freedoms, the International Covenant on Civil and Political Rights (*ICCPR*) is the main UN HR Treaty that directly and more comprehensively addresses the issue, e.g. with Articles 12 (movement), 18 (thought, conscience and religion), 19 (expression), 21 (peaceful assembly) and 22 (association). At the same time, other UN HR Treaties are also dealing with the issue in their own scope and context, among others: the International Covenant on Economic, Social and Cultural Rights (*ICESCR*) with its Article 8 (right to form trade unions and right of trade unions including to strike); the International Convention on the Elimination of All Forms of Racial Discrimination (*ICERD*) with its Article 5 (d), (vii) – (ix) (prohibition of racial discrimination in the enjoyment of the fundamental freedoms); the Convention on the Elimination of All Forms of Discrimination against Women (*CEDAW*) with its Articles 3 (enjoyment of fundamental freedoms on a equal basis) and 7 (c) (right to participate in NGOs and association); the Convention on the Rights of the Child (*CRC*) with its Articles 13 (expression), 14 (thought, conscience and religion) and 15 (association and peaceful assembly); the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (*ICMW*) with its Articles 12 (thought, conscience and religion) and 13 (expression and right to information); and the Convention on the Rights of Persons with Disabilities (*CRPD*) with its Article 21 (expression, opinion and access to information), while the Convention against Torture and Other Cruel, Inhumane of Degrading Treatment or Punishment (*CAT*) and the International Convention for the Protection of All Persons from Enforced Disappearance (*CPED*) are addressing issues that are interlinked with the enjoyment (or restriction) of fundamental freedoms. As such, the issue of fundamental freedoms can and indeed have been dealt with by these Treaty Bodies and under Universal Periodic Review (UPR).

Against this backdrop, this tool consists of different parts, which can be used as separate component or as a whole depending on the purpose of the reader. Chapter 2 provides an overview of ideas for *what civil society can do*

for effective follow-up to the reviews by UN HR bodies. Chapter 3 explains *procedures of different UN Treaty Bodies for the follow-up to Concluding Observations*, as each of them has distinctive features and modalities. Chapter 4 lists up *recommendations issued by different UN HR bodies to Thailand on the issue of fundamental freedoms*. Chapter 5 summarises the *current status for reporting and follow-up* as well as the *schedule of the reviews of Thailand by UN HR bodies* as of October 2018.

The tool can also be used as a basis of training or strategy / activity planning. The CCPR-Centre can be contacted for more details or for the facilitation of trainings and planning exercise in accordance with the context on the ground and particular needs of stakeholders.



2. Follow-up to the reviews and holistic utilisation of UN HR Bodies - what you can do

The main result of the reviews by UN HR bodies is the recommendations issued by them to the country concerned. Recommendations issued by Treaty Bodies are more specific and detailed than those issued under UPR. In many countries, however, the biggest challenge in the cycle of reviews comes at the stage of implementation of those recommendations by the State party. So, *what can civil society do to enhance implementation of the recommendations of UN HR bodies?* Below are some ideas and possibilities.

2.1. Dissemination of information and awareness raising

The very first thing civil society can do after the publication of the recommendations of UN Treaty Bodies or UPR is to *disseminate* them as wide as possible and raise awareness of all the stakeholders including relevant *national or local authorities, Parliamentarians, general public, civil society, media* and also *diplomatic community* in the country. *Social media* and *link to the archived webcast video*¹ of the review can be useful in this regard. In addition, *translation* of the recommendations into national or local languages, if they are different from the language used for the recommendations, can be very effective. For the target audience, who

¹ Review of the countries in public meetings are live broadcasted and later archived by UN Web TV here: <http://webtv.un.org/>

are not familiar with legal matters or UN HR system, making a *summary* of recommendations, *briefing notes*, *video clips*, *posters*, *comics* etc. will help understand the recommendations and what the State Party is obliged to do.

CASE: posters produced for the follow-up to ICCPR review of Bangladesh

In cooperation with the CCPR-Centre, the Center for Social Activism (CSA) has produced a series of posters highlighting and explaining, in Bangla, three recommendations of the HR Committee that were selected for the Committee's follow-up procedure. These posters were distributed and are also available online² to raise awareness of all stakeholders including general public.

2.2. Monitoring and assessment

As the process of implementation require certain time and efforts by different authorities in charge, it is important for civil society to *monitor* the situation by focusing on *whether* or *what kind* of *actions* are taken by the authority to *implement*, or sometimes *contrary* to, the recommendations issued by the UN HR bodies. In doing so, it could also be useful to identify *indicators* for (full) implementation specifying what concrete and detailed *actions* are *required* to address the issues at stake, as compared to the current situation, where no action is yet taken.

Based on the monitoring of the situation, *assessment* of the status of implementation should be carried out, for example, *1-2 years after the last review* and *before the next reviews* of relevant UN HR bodies including UPR, whereby the result of the civil society assessment can be directly submitted to those bodies (also see Chapters 2.4 and 5). Furthermore, it can also be used as a material for advocacy at the national and grassroots levels.

The CCPR-Centre has a template for civil society assessment of the implementation of UN HR Committee's recommendations, which can also be used for the assessment of recommendations issued by other Treaty Bodies. Furthermore, the Centre can also be contacted e.g. to obtain more concrete information about the follow-up, or to develop more specific

² <https://csabd.org/follow-up-of-iccpr/>

monitoring and assessment tool in accordance with the national context including analysis of recommendations and identification of indicators.

CASE: Civil Society Monitoring and Assessment

With support of CCPR-Centre or using the template developed by the Centre, civil society organisations in many countries have jointly carried out monitoring and assessment of the implementation of recommendations issued by UN HR Committee. The result of these assessments was also submitted to the Committee for the evaluation of follow-up actions taken by the State Parties upon the submission of State follow-up reports (see Chapters 2.3 and 3 too), for example in Asia, for the follow-up to the reviews of Cambodia³, Indonesia⁴, Japan⁵, Korea (Republic of)⁶, Nepal⁷ and Thailand⁸.

2.3. Utilisation of follow-up procedure of UN Treaty Bodies

Several UN Treaty Bodies, i.e.: the *Human Rights Committee* (HR Committee) monitoring ICCPR; the *Committee on Economic, Social and Cultural Rights* (CESCR) monitoring ICESCR; the *Committee on the Elimination of Racial Discrimination* (CERD) monitoring ICERD; the *Committee on the Elimination of Discrimination against Women* (CEDAW) monitoring CEDAW; the *Committee against Torture* (CAT) monitoring CAT; the *Committee on the Rights of Persons with Disabilities* (CRPD) monitoring CRPD; and the *Committee on Enforced Disappearance* (CED) monitoring CPED, have *specific procedures for the follow-up to Concluding Observations* to check

³ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbol-no=INT%2fCCPR%2fNGS%2fKHM%2f24423&Lang=en

⁴ https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IDN/INT_CCPR_NGS_IDN_19967_E.pdf

⁵ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbol-no=INT%2fCCPR%2fNGS%2fJPN%2f21692&Lang=en

⁶ https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KOR/INT_CCPR_NGS_KOR_27078_E.pdf

⁷ https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/NPL/INT_CCPR_NGS_NPL_21909_E.pdf

⁸ https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/THA/INT_CCPR_NGS_THA_30567_E.pdf

implementation of selected recommendations 1 – 2 years after the review. More detailed information on this procedure is provided in the [Chapter 3](#).

Civil society actors, who are dealing with the issues addressed in the recommendations selected for the follow-up procedure of Treaty Bodies, are highly encouraged to utilise it by assessing the implementation and submitting reports.

2.4. Holistic utilisation of UN HR bodies

As human rights issues on the ground require long-term actions by various stakeholders, just one time of review by one UN body might not bring tangible impact (immediately). It is therefore highly recommended to, wherever possible, *combine*: the *cycles* of reviews by one body linking the follow-up of previous cycle to the preparation for the next one, and the opportunities of *all reviews by relevant UN Treaty Bodies* and *UPR*.

For this purpose, civil society can first check *recommendations so far* issued by UN Treaty Bodies and UPR on the issues of their concern. As an example, recommendations issued to Thailand on the fundamental freedoms are listed in the [Chapter 4](#), whereby the issue has so far been addressed by the HR Committee, CESCR, CAT and UPR. The *assessment of the implementation* of these recommendations should be carried out whenever possible and can further be utilised for the follow-up procedure of respective bodies (if any), next review of any relevant Treaty Bodies and UPR as well as for the advocacy at the national and grassroots levels.

In doing so, it is also advisable to check the *schedule of the review and follow-up* of the country concerned by the UN Treaty Bodies and UPR, especially opportunities and deadlines for the civil society reports. As an example, currently available *schedule of the review and follow-up of Thailand* is summarised in the [Chapter 5](#), which can be directly used for the civil society working on the fundamental freedoms.



3. Follow-up procedures of UN HR Bodies

Seven of the existing ten UN Treaty Bodies have specific procedure for the follow-up (FU) to Concluding Observations⁹, namely, the *HR Committee*, *CESCR* (on pilot basis), *CERD*, *CEDAW*, *CAT*, *CRPD* (currently put on hold¹⁰) and *CED*. Some of these TBs have also made notes or guidelines specifying this procedure: HR Committee¹¹, CESCR¹², CERD¹³, CAT¹⁴ and CRPD¹⁵.

⁹ Many of them also have procedure for the follow-up to views and decisions taken under individual communication or complaint procedure

¹⁰ Since its 19th session (CRPD/C/19/2, Annex I para. 10)

¹¹ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbol-no=CCPR%2fC%2f108%2f2&Lang=en (currently under substantive revision)

¹² <https://www.ohchr.org/Documents/HRBodies/CESCR/Follow-upConcludingObservations.docx>, and E/2018/22 & E/C.12/2017/3, Annex

¹³ https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/1_Global/INT_CERD_FGD_5554_E.pdf

¹⁴ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/210/35/PDF/G1521035.pdf?OpenElement>

¹⁵ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbol-no=CRPD/C/5/4&Lang=en

3.1. Overview of the UNTBs procedure for follow-up to Concluding Observations

Treaty Body	Time frame for State's FU report	In case of no-reply from State Parties	Number of recommendations selected	Publication of the results of follow-up ¹⁶	Civil society participation
HR Committee	24 months	Reminder	2 - 4	Webpage ¹⁷	CS can submit own FU report
CESCR	18 months	Not specified	Up to 3	Webpage (not yet available)	CS can submit own FU report
CERD	12 months	Reminder	2 - 4	Webpage ¹⁸	Not specified
CEDAW	24 months (exceptionally 12 months)	Reminder	Up to 2 §s or 4 sub-§s	Webpage ¹⁹	CS can submit own FU report
CAT	12 months	Reminder	Up to 4	Webpage ²⁰	CS can submit own FU report
CRPD	12 months	Not specified	Not specified	Webpage ²¹	CS can submit own FU report
CED	12 months	Not specified	Not specified	Webpage ²²	CS can submit own FU report

¹⁶ Results of the assessment is also published in each Committee's annual report (biannual / sessional report in case of CRPD) and, if available, in the report of the follow-up Rapporteur of each Committee

¹⁷ https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/FollowUp.aspx?Treaty=C-CPR&Lang=en

¹⁸ https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/FollowUp.aspx?Treaty=C-ERD&Lang=en

¹⁹ https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/FollowUp.aspx?Treaty=CEDAW&Lang=en

²⁰ https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/FollowUp.aspx?Treaty=CAT&Lang=en

²¹ https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/FollowUp.aspx?Treaty=CRPD&Lang=en

²² https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/FollowUp.aspx?Lang=En&TreatyID=2

3.2. Criteria for the selection of the recommendations for the follow-up procedure

Following Treaty Bodies specify criteria for the selection of recommendations for their follow-up procedure:²³

HR Committee

- (a) The recommendation is implementable within a year after its adoption;
- (b) The recommendation requires immediate attention because of:
 - (i) The level of gravity of the referred situation;
 - (ii) The emergency of the situation. Such emergency occurs when:
 - The lack of intervention constitutes a major obstacle for the implementation of the Covenant
 - The lack of intervention could threaten the life or security of one or various persons, or
 - The issue has been pending for a long time and has not been addressed by the State party (for example, a bill has been pending adoption for an unreasonable length of time)

CESCR:

Recommendations require urgent action and should be attainable within a period of 18 months.

CEDAW

The issues constitute a major obstacle to women's enjoyment of their human rights and would therefore constitute a major obstacle for the implementation of the Convention as a whole.

CAT

Recommendations that contribute to the prevention of torture and the protection of victims, for example by resulting in:

- a) The strengthening of legal safeguards for people deprived of their liberty;

²³ CERD and CRPD currently do not have or specify the criteria for the selection of recommendations

- b) The conduct of prompt and impartial investigations of alleged cases of torture or ill-treatment;
- c) The prosecution of suspects and the punishment of perpetrators of torture or ill-treatment;
- d) The provision of redress to victims, and implementable within 1 year.

CED

Recommendations are particularly serious, urgent, protective, and/or can be achieved within short periods of time.

3.3. Criteria for the assessment of the follow-up reply / actions

HR Committee, *CESCR* and *CED* uses combined criteria for the assessment of the State Parties' reply and action, while *CEDAW* uses two separate criteria for the assessment of i) degree of implementation, and ii) quality of information, and *CAT* has three separate criteria for the assessment of i) information, ii) implementation, and iii) implementation plan, as follows:²⁴

HR Committee

A - Reply/action largely satisfactory: The State party has provided evidence of significant action taken towards the implementation of the recommendation made by the Committee.

B – Reply/action partially satisfactory: The State party has taken steps towards the implementation of the recommendation, but additional information or action remains necessary.

C – Reply/action not satisfactory: A response has been received, but action taken or information provided by the State party is not relevant or does not implement the recommendation.

D – No cooperation with the Committee: No follow-up report has been received after the reminder(s).

E – Information or measures taken are contrary to or reflect rejection of the recommendation

.....
²⁴ CERD, CRPD and CED currently do not have or specify the criteria for the assessment of follow-up reply / actions

CESCR

Sufficient progress: when the State party has taken significant action in response to the recommendation made by the Committee; this will be acknowledged by the follow-up Rapporteur;

Insufficient progress: when the State party has taken some steps in response to the recommendation but needs to take further actions; in this case, the follow-up Rapporteur requests additional information in the next periodic report;

Lack of sufficient information to make an assessment: in this case, the follow-up Rapporteur requests information on the measures taken by the State party in the next periodic report;

No response: if the State party does not provide any information in response to the Committee's follow-up recommendations. In this case, the selected recommendations will be considered as a priority during the next dialogue.

CEDAW

Degree of implementation:

Implemented: indicates that the State party has provided evidence of the full implementation of all actions recommended by the Committee. In this case, the Rapporteur on follow-up requests no additional information from the State party;

Substantially implemented: indicates that the State party has provided evidence that it has taken substantial action towards the implementation of the recommendation, but that this action fails to respond fully to the recommendation. In this case, the Rapporteur on follow-up requests no additional information from the State party;

Partially Implemented: indicates that the State party took some steps towards the implementation of the recommendation, but that it needs to take further action to implement all measures recommended by the Committee. In this case, the Rapporteur on follow-up requests additional information from the State party, within a specific time frame or in the next periodic report, on further steps taken to implement the recommendation;

Not implemented: indicates that the State party has taken no action to implement the recommendation or that the action taken has not directly addressed the situation. In this case, the Rapporteur on follow-up requests information from the State party, within a specific time frame or in the next periodic report, on steps taken to implement the recommendation;

Lack of sufficient information to make an assessment: indicates that the State party has provided some information, but that it is insufficient to assess whether the recommendation has been implemented. In this case, the Rapporteur on follow-up requests information from the State party, within a specific time frame or in the next periodic report, on steps taken to implement the recommendation;

Information or measures taken are contrary to or reflect rejection of the recommendation: indicates that the State party has taken no steps to implement the recommendation, reinforcing the Committee's concerns, or that it rejects the recommendations made by the Committee. In this case, the Rapporteur on follow-up indicates that the State party has failed to cooperate with the Committee in respect of the recommendation. The Rapporteur on follow-up thus requests information from the State party, within a specific time frame or in the next periodic report, on steps taken to implement the recommendation.

Quality of information:

Satisfactory: indicates that the information received from the State party is thorough and extensive, and that it relates directly to the recommendation;

Partially satisfactory: indicates that the information received from the State party is thorough and extensive, but that it fails to respond fully to the recommendation;

Unsatisfactory: indicates that the information received from the State party is vague and incomplete, and/or that it fails to address the recommendation;

No response: indicates that the State party has not addressed the concern or recommendation in the response.

CAT

Information:

Satisfactory – 3: The information is thorough and extensive, and relates directly to the recommendations;

Partly satisfactory – 2: The information is thorough and extensive, but fails to respond fully to the recommendations;

Unsatisfactory – 1: The information is vague and incomplete and/or fails to address the recommendations;

No response – 0: The State party has not addressed the concern or recommendations in the response.

Implementation:

A: The recommendation has largely been implemented (the State party has provided evidence that sufficient action has been taken towards the full or almost full implementation of the recommendation);

B1: The recommendation has been partially implemented (the State party has taken substantive steps towards the implementation of the recommendation but further action is needed);

B2: The recommendation has been partially implemented (the State party has taken initial steps towards implementation but further action is needed);

C: The recommendation has not been implemented (the State party has taken no action to implement the recommendation or the action taken has not addressed the situation);

D: The information provided is insufficient to assess implementation (the State party has not provided enough information on the measures taken to implement the recommendation);

E: The recommendation has been counteracted (the State party adopted measures that are contrary or have results contrary to the recommendations of the Committee).

Implementation plan:

A: The implementation plan largely addresses all of the Committee's recommendations;

B: The implementation plan addresses some of the Committee's recommendations;

C: The implementation plan has not been provided.

CED

A – Reply/action largely satisfactory: Reply largely satisfactory

B – Reply/action partially satisfactory: Substantial action taken, but additional information required / Initial action taken, but additional information and measures required

C – Reply/action not satisfactory: Reply received but action taken does not implement the recommendation / Reply received but not relevant to the recommendation / No reply received concerning a specific matter in the recommendation

D – No cooperation with the Committee: No reply received after reminder(s)

E – The measures taken are contrary to the Committee's recommendations: The reply reveals that the measures taken are contrary to the Committee's recommendations



4. Recommendations issued by UN HR Bodies to Thailand on fundamental freedoms

Under each UN HR Treaties it has joined, Thailand has gone through at least one review by each Treaty Body and two cycles of UPR. *Recommendations* issued by all these bodies at the latest review (HR Committee in March 2017, CESCR in June 2015, CERD in August 2012, CEDAW in July 2017, CAT in June 2014, CRC in February 2012, CRPD in April 2016 and UPR in May 2016) were studied and those *related to fundamental freedoms* are compiled below, while not all of the aforementioned bodies have issued recommendations addressing fundamental freedoms. *Concrete actions* raised in the recommendations are also highlighted, which can be used for the assessment of implementation.

HR Committee (CCPR/C/THA/CO/2)²⁵

§ 6 (derogation): *The State party should consider revoking its derogations from articles 12 (1), 14 (5), 19 and 21, with a view to ensuring the full and effective application of the Covenant. In any case, the State party should ensure that any derogation is fully compatible with the provisions of article 4 of the Covenant as interpreted in general comment No. 29.*

²⁵ Many issues are interlinked with fundamental freedoms, recommendations listed here are those that are more directly addressing or related to them, i.e. ICCPR Articles. 2, 4, 18 – 22

§ 8 (legal framework, [selected for the follow-up procedure](#) of HR Committee): *The State party should review all measures adopted under the interim Constitution of 2014, in particular under sections 44, 47 and 48, in the light of its obligations under the Covenant, and make sure that all measures to be adopted under the new draft Constitution, including section 279, will be consistent with its obligations under the Covenant, including the obligation to provide effective remedies to victims of human rights violations.*

§s 25 & 26 (arbitrary detention): § 25 – *The Committee is concerned about reports of the arbitrary detention of hundreds of individuals exercising their right to assembly and/or freedom of expression for “attitude adjustments” after the 2014 coup, and that such individuals were reportedly often detained without charge and held incommunicado at undisclosed places of detention for periods of up to seven days, with no judicial oversight or safeguards against ill-treatment and without access to a lawyer. It is further concerned that upon release, detainees were reportedly compelled to sign a written agreement not to travel abroad and refrain from expressing political views, and that failure to comply involved the risk of up to two years of imprisonment. Finally, the Committee is concerned about the practice of detaining without charge and without habeas corpus criminal suspects for long periods of time, which can reach 30 days in cases before civilian courts and 84 days in cases before military courts (arts. 7, 9-10, 12, 14, 19 and 21); § 26 – [The State party should immediately release all victims of arbitrary detention and provide them with full reparation. It should also bring its legislation and practices into compliance with article 9 of the Covenant](#), taking into account the Committee’s general comment No. 35.*

§s 35 & 36 (freedom of expression): § 35 – *The Committee is concerned about reports of the severe and arbitrary restrictions imposed on the right to freedom of opinion and expression in the State party’s legislation, including in the Criminal Code, the Computer Crimes Act (2007), Order 3/2015, and the restrictions imposed through section 44 of the interim Constitution. It is also concerned about criminal proceedings, especially criminal defamation charges, brought against human rights defenders, activists, journalists and other individuals under the above-mentioned legislation, and about reports of the suppression of debate and campaigning, and criminal charges against individuals during the*

run-up to the Constitutional referendum in 2016 (arts. 19 and 25); § 36 - The State party should *take all measures necessary to guarantee the enjoyment of freedom of opinion and expression in all their forms, in accordance with article 19 of the Covenant. Any restriction should comply with the strict requirements of article 19 (3), as further developed in the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression, including the strict tests of necessity and proportionality. It should also consider decriminalizing defamation and, in any case, countenance the application of criminal law only in the most serious of cases, bearing in mind that imprisonment is never an appropriate penalty for defamation. The State party should also refrain from using its criminal provisions, including the Computer Crimes Act (2007), the Sedition Act and other regulations, as tools to suppress the expression of critical and dissenting opinions. It should take all measures to end prosecutions against those charged for exercising their freedom of opinion and expression during the constitutional referendum, and provide appropriate training to judges, prosecutors and law enforcement personnel regarding protection of freedom of expression and opinion.*

§s 37 & 38 (lese-majesty): § 37 - *The Committee is concerned that criticism and dissent regarding the royal family is punishable with a sentence of 3-15 years' imprisonment, about reports of a sharp increase in the number of people detained and prosecuted for the crime of lese-majesty since the military coup and about extreme sentencing practices, which result in dozens of years of imprisonment in some cases (art. 19); § 38 - The State party should review article 112 of the Criminal Code, on publicly offending the royal family, to bring it into line with article 19 of the Covenant. Pursuant to its general comment No. 34, the Committee reiterates that the imprisonment of persons for exercising their freedom of expression violates article 19.*

§s 39 & 40 (peaceful assembly): § 39 - *The Committee is concerned about the excessive restrictions imposed on the freedom of peaceful assembly since the military coup of 2014, in particular the strict banning of any public gathering of more than five people and political gatherings of more than four people. It is also concerned about the provisions of the Public Assembly Act (2015) that establish criminal penalties for failing to provide prior notification to authorities regarding the organization of peaceful assemblies. The Committee is particularly concerned about*

the arrest of hundreds of people for having organized or taken part in peaceful gatherings (art. 21); § 40 - The State party should effectively guarantee and protect the freedom of peaceful assembly and avoid restrictions that do not respond to the requirements under article 4 of the Covenant. In particular, it should refrain from imposing detention on individuals who are exercising their rights and who do not present a serious risk to national security or public safety.

CESCR (E/C.12/THA/CO/1-2)

§ 23 (Trade union rights): *The Committee is concerned that educational personnel of private and public universities, workers of “public organizations” and non-Thai nationals do not have the right to form trade unions (art. 8). The Committee urges the State party to ensure that all employees in both the private and public sectors effectively enjoy the right to freely form and join trade unions and extend the right to non-nationals. Given the large number of migrant workers in the State party, the Committee emphasises the importance of recognizing their right to form and join trade unions to represent their interests with a view to improving the enjoyment of their economic, social and cultural rights.*

CAT (CAT/C/THA/CO/1)

§ 18 (Human Rights Defenders selected for the follow-up procedure of CAT): *The Committee is concerned at the numerous and consistent allegations of serious acts of reprisals and threats against human rights defenders, journalists, community leaders and their relatives, including verbal and physical attacks, enforced disappearances and extrajudicial killings, as well as by the lack of information provided on any investigations into such allegations (arts. 2, 12, 14 and 16). The State party should take all the necessary measures to: (a) put an immediate halt to harassment and attacks against human rights defenders, journalists and community leaders; and (b) systematically investigate all reported instances of intimidation, harassment and attacks with a view to prosecuting and punishing perpetrators, and guarantee effective remedies to victims and their families. In that regard, the Committee recommends that the Thai authorities provide the family of Somchai Neelaphajit with full reparation and take effective measures aimed at the cessation of continuing violations, in particular by guaranteeing the right to truth (general comment No. 3, para. 16).*

UPR (A/HRC/33/16)

Recommendations accepted by Thailand:

§ 158.130: *Ensure that the right to **freedom of expression** is fully respected and its exercise facilitated, including with respect to the drafting and adopting of the new Constitution (Czech Republic)*

§ 158.131: *Respect fully **press freedom** and **freedom of expression** in accordance with international law (Guatemala)*

§ 158.132: *Further improve its human rights situation, including by ensuring civil and political rights such as **freedom of expression** and **political activities** (Japan)*

§ 158.133: *Enhance the **rights of expression and opinion** (Lebanon)*

§ 158.134: *Fully respect **freedom of press and expression** (Republic of Korea)*

§ 158.135: *Bring national legislation on **freedom of expression** in compliance with international law (Albania)*

§ 158.136: *Adopt rules and programmes to ensure **freedom of expression and opinion** (Chile)*

§ 158.137: *Ensure the protection of **freedom of opinion and expression** (France)*

§ 158.138: *Guarantee the rights to **freedom of expression and assembly** and ensure an inclusive debate among all stakeholders with regard to the upcoming referendum and the enactment of a new constitution (Austria)*

§158.139: *Condemn and investigate all **violence against journalists**, inform UNESCO of the actions taken to prevent the killing of journalists and notify UNESCO of judicial inquiries conducted (Netherlands)*

§ 158.140: *Inform UNESCO on the actions taken to prevent the **impunity** of the perpetrators of the **killings of journalists**, and notify UNESCO of the status of the judicial inquiries conducted (Austria)*

§ 158.141: *Take measures to ensure the **rights of peaceful assembly, freedom of expression** and **freedom of assembly**, especially in the context of peaceful protests (Costa Rica)*

§ 158.142: *Invigorate measures to safeguard the **freedoms of press, speech**, and broad participation from various sectors in political and public life (Colombia)*

Recommendations NOT accepted by Thailand:

§ 159.14: *Lift undue restrictions on the exercise of fundamental freedoms, particularly section 61 of the referendum law and Order number 7/2557 of the National Council for Peace and Order, to allow all Thai people to participate fully in the political reform processes, including efforts to produce a new constitution* (United States of America)

§ 159.19: *Propose concrete dates for visits by the Special Rapporteurs on freedom of opinion and expression, and freedom of association and assembly, respectively* (Norway)

§ 159.50: *Review its legislation in order to ensure that all legislation, including any laws regulating the internet access to information, comply with international human rights standards protecting freedom of expression and freedom of assembly* (Finland)

§ 159.51: *Ensure that there are no restrictions on freedom of expression especially for the media and human rights defenders, and that no one faces threats and harassment, including attitude adjustment, for expressing their views and that all legislation affecting freedom of expression is compatible and implemented in line with Thailand's international obligations as recommended by the Special Rapporteur on the situation of human rights defenders in 2016* (United Kingdom of Great Britain and Northern Ireland)

§ 159.52: *Amend article 112 of Thailand's Criminal Code to remove prison terms for offences stemming from the legitimate exercise of the right to freedom of opinion and expression and ensure that the prohibited acts are unambiguous and that sanctions are proportionate to the act committed* (Belgium)

§ 159.53: *Repeal Order 3/2015 by the National Council for Peace and Order and the 2015 Public Assembly Act, and stop the use of the 2007 Act on Computer-Related Offences as well as Criminal Code articles 112, 326, and 328 to restrict freedom of expression* (Canada)

§ 159.54: *That steps be taken to abolish the lese-majesty legislation and the 2007 Computer Crimes Act, and the immediate implementation of public and transparent proceedings in cases concerning these laws* (Norway)

§ 159.55: *Review the Penal Code articles 112 (lese-majesty), 326 (defamation), and 328 (slander) as well as 14 and 15 of the 2007*

Computer Crimes Act, and align them to the human rights international obligations (Spain)

§ 159.56: *Amend article 14 of the Computer Crimes Act to ensure it cannot be used to prosecute cases of alleged defamation (Sweden)*

§ 159.57: *Amend the lese-majesty law to bring it in line with international human rights standards, allow media to function independently and free of prior censorship or interference by law enforcement agencies and release all those who have been jailed for exercising their rights to freedom of expression (Latvia)*

§ 159.58: *Guarantee and respect the right to freedom of expression, association and assembly putting an end to arbitrary detentions and arrests and any act of harassment against political actors and civil society, including human rights defenders (Switzerland)*

§ 159.59: *Ensure that the right of freedom of opinion is respected, including by reviewing Article 112 of the Penal Code, and ensure a safe environment that promotes the rights of all people to freely associate and assemble without hindrances (Germany)*

§ 159.60: *Remove undue restrictions on and infringements to the enjoyment of the freedoms of expression, association and peaceful assembly (Botswana)*

§ 159.61: *Repeal all legislation which undermines the freedom of expression and assembly and ensure that all measures regarding these freedoms are consistent with Thailand's obligations under international law (Italy)*

§ 159.62: *Immediately end all infringement on the rights to freedom of expression, association and peaceful assembly under section 44 of the 2014 interim constitution, the Computer Crimes Act, and articles 112 and 116 of the Penal Code – and unconditionally release persons detained or imprisoned for exercising these rights (Iceland)*

§ 159.63: *Repeal existing legislation that restricts freedoms of expression and of assembly in accordance with Thailand's obligations under international human rights law (Brazil)*

5. Current status of Thailand's reporting and follow-up, and schedule of coming reviews (as of October 2018)



HR Committee²⁶

Last review: *March 2017* (2nd):

- Concluding Observations: [CCPR/C/THA/CO/2²⁷](#)
- Follow-up recommendations: *§s 8, 22 and 34*
- State follow-up report: *submitted in July 2018²⁸*
- Follow-up evaluation by HR Committee: *due in 2019* (tbc)

Next review (3rd):

- The List of Issues Prior to Reporting (LOIPR)²⁹: *to be adopted in March 2020*

²⁶ Also see: <http://ccprcentre.org/country/thailand>

²⁷ <http://ccprcentre.org/files/documents/CCPR:C:THA:CO:2.pdf>

²⁸ http://ccprcentre.org/files/documents/CCPR:C:THA:CO:2:ADD_1.pdf, informal translation of the report in Thai also available at: http://ccprcentre.org/files/media/CCPR_C_THA_CO_2_ADD_1_Thai1.pdf

²⁹ Thailand has accepted “*simplified reporting procedure*” of the HR Committee (<https://www.ohchr.org/EN/HRBodies/CCPR/Pages/SimplifiedReportingProcedure.aspx>), whereby the Committee will adopt the so-called “*List of Issues Prior to Reporting* (LOIPR)” before the submission of next State Party report. Thailand is requested to submit written reply to LOIPR within 1 year. The written reply of the State Party will be regarded as next State report and becomes the basis for the next review.

- Deadline for civil society reports for the adoption of LOIPR: *10 weeks before the start of the session concerned*
- State report under LOIPR: *due in March 2021*
- Timing of the next review: *TBC*
- Deadline for civil society reports for the review: *4 weeks before the start of the session concerned*

CESCR

Last review: *June 2015* (combined 1st – 2nd):

- Concluding Observations: *E/C.12/THA/CO/1-2*³⁰
- Follow-up recommendations: *NA*

Next review (3rd):

- State report (3rd): *due in June 2020*
- Deadline for civil society reports for the adoption of the List of Issues (LOI): *8 – 10 weeks before the start of Pre-sessional Working Group*
- Timing of the next review: *TBC*
- Deadline for civil society reports for the review: *3 – 6 weeks before the start of the session concerned*

CERD

Last review: *August 2012* (combined 1st – 3rd):

- Concluding Observations: *CERD/C/THA/CO/1-3*³¹
- Follow-up recommendations: *§s 20, 21 and 25*
- State follow-up report: *submitted in December 2013*³²
- Follow-up evaluation by CERD: *August 2014*³³

³⁰ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbol-no=E%2fC.12%2fTHA%2fCO%2f1-2&Lang=en

³¹ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbol-no=CERD%2fC%2fTHA%2fCO%2f1-3&Lang=en

³² https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/THA/INT_CERD_FUL_THA_18413_E.pdf

³³ Letter sent to Thailand by CERD: https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/THA/INT_CERD_FUL_THA_18413_E.pdf

Next review (combined 4th – 7th):

- State report (4th – 7th): *overdue since 28 January 2016*
- Timing of the next review: *TBC*
- Deadline for civil society reports for the review: *3 weeks before the start of the session concerned*

CEDAW

Last review: *July 2017* (combined 6th – 7th):

- Concluding Observations: *CEDAW/C/THA/CO/6-7*³⁴
- Follow-up recommendations: *§s 23 (b) and (e), 43 (c) and (d)*
- State follow-up report: *due in July 2019*

Next review (3rd):

- State report (8th): *due in July 2021*
- Timing of the next review: *TBC*
- Deadline for civil society reports for the Pre-sessional Working Group (adoption of LOI) and the review: *3 weeks before the start of the session concerned*

CAT

Last review: *April and May 2014* (1st):

- Concluding Observations: *CAT/C/THA/CO/1*³⁵
- Follow-up recommendations: *§s 12, 13, 15 and 18*
- State follow-up report: *submitted in May 2015*³⁶
- Follow-up evaluation by CAT: *August 2016*³⁷

³⁴ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbol-no=CEDAW%2fC%2fTHA%2fCO%2f6-7&Lang=en

³⁵ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbol-no=CAT%2fC%2fTHA%2fCO%2f1&Lang=en

³⁶ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/126/27/PDF/G1512627.pdf?OpenElement>

³⁷ Letter sent to Thailand by CAT: https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/THA/INT_CAT_FUL_THA_25024_E.pdf

Next review (2nd):

- LOIPR³⁸: *adopted in May 2018*³⁹
- Timing of the next review: TBC
- Deadline for civil society reports for the review: 4 weeks before the start of the session concerned

CRC

Last review: *January 2012* (combined 3rd – 4th):

- Concluding Observations: *CRC/C/THA/CO/3-4*⁴⁰
- Follow-up recommendations: NA

Next review (5th – 6th):

- State report (5th – 6th): *overdue since 25 October 2017*
- Timing of the next review: TBC
- Deadline for civil society reports for the adoption of LOI / LOIPR and the review: *fixed deadline for each session*⁴¹

CRPD

Last review: *March 2016* (1st):

- Concluding Observations: *CRPD/C/THA/CO/1*⁴²
- Follow-up recommendations: *§s 35 (2), 54 (c), and 68*
- State follow-up report: *submitted in April 2017*⁴³
- Follow-up evaluation by CRPD: *not yet available*

Next review (2nd – 4th):

- State report (2nd – 4th): *due in August 2022*
- Timing of the next review: TBC

³⁸ <https://www.ohchr.org/EN/HRBodies/CAT/Pages/ReportingProcedures.aspx>

³⁹ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbol-no=CAT%2fC%2fTHA%2fQPR%2f2&Lang=en

⁴⁰ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbol-no=CRC%2fC%2fTHA%2fCO%2f3-4&Lang=en

⁴¹ See <https://www.ohchr.org/EN/HRBodies/CRC/Pages/InfoPartners.aspx>

⁴² https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbol-no=CRPD%2fC%2fTHA%2fCO%2f1&Lang=en

⁴³ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbol-no=CRPD%2fC%2fTHA%2fCO%2f1%2fAdd.1&Lang=en

- Deadline for civil society reports for the adoption of LOI: *8 weeks*⁴⁴
- Deadline for civil society reports for the review: *4 weeks*⁴⁵

UPR

Last review (2nd): *May 2016*⁴⁶

- Mid-term reporting: *November 2018*

Next review (3rd): *May 2021*

- Deadline for civil society reports: *September 2020*

*Thailand is not yet Party to the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICMW) and the *International Convention for the Protection of All Persons from Enforced Disappearance* (CPED).

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⁴⁴ To be confirmed with update information from the Committee

⁴⁵ Ibid.

⁴⁶ <https://www.ohchr.org/EN/HRBodies/UPR/Pages/THindex.aspx>

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