

Country Briefing on Freedom of Religion or Belief in the Universal Periodic Review Process - Thailand

Key points

An examination of the Universal Periodic Review (UPR) of Thailand across two cycles (2009, 2014) reveals:

- No serious concern for Freedom of Religion or Belief (FoRB), though an uncertain situation prevails with regard to the Constitution and the rule of law following the 2014 *coup d'état*. The current constitutional arrangement contains guarantees on FoRB.
- Highlanders, inclusive of minority ethnic communities, continued to be denied citizenship and consequently FoRB.
- Muslims in South Thailand were a concern in spite of the Government's claims that the conflict is not a religious one.
- Rohingya, Muslim refugees from Myanmar, faced discrimination as their rights under international law were being violated.

Key UPR recommendations on FoRB

The following recommendations were made on FoRB across two cycles:

- To generally improve the situation of human rights in Thailand, including the protection of FoRB

Follow-up action for parliamentarians

Whereas the Government of Thailand has noted its guarantees on FoRB, *Parliamentarians must follow-up in order to:*

- Ensure that current constitutional arrangements provide for clear and unambiguous protections on FoRB that are in conformity with Thailand's international human rights obligations.
- Ensure that minority groups and indigenous peoples in the Highlands are granted citizenship in order to enjoy fully their cultural and spiritual practices.
- Ensure that Muslims in South Thailand are not subject to discrimination amidst the ongoing conflict

The situation of FoRB in Thailand as revealed in the UPR is outlined hereafter.

Background

Demographics

What is the UPR?

The UPR of the United Nations Human Rights Council (HRC) is a peer-review process to foster dialogue on human rights and to improve adherence to universal standards and best practices .

It was launched in 2007 through UN General Assembly Resolution 60/251.

Every 4.5 years each Member State's human rights record is examined by peers.

A number of key documents are submitted:

- National Reports from Member State concerned,
- Information from UN bodies and treaty-based rights mechanisms, and
- Information provided by relevant stakeholders, including civil society and think-tanks.

The State under review (SUR) is evaluated on its compliance with the international human rights standards and best practices.

The SUR receives recommendations from other States on how the national human rights practices could be improved.

1. Thailand has a population of 68,200,824 people spread over 513,115 square kilometres. It comprises diverse ethnic groups: ethnic Thais (75 %); Chinese (14%); and Malay (3%), predominantly Muslims living in the three southernmost provinces. The rest consist of minority groups, including various Burmese migrants and hill tribes such as Aka, Lisu, Lahu, Mien and others. (CIA, *World Factbook* 2017)

Religious Mix

2. The majority of the population is Buddhist (94.6%), Muslim (4.3%), Christian (1%), other (less than 1%) and no religion (less than 1%) (2015 est.). (CIA *World Factbook* 2017). Some of the hill tribes practice the Christian faith.

Legal Provisions on FoRB

3. Thailand's new and 20th Constitution in less than a century received royal assent in April 2017. While ostensibly seeking to create a more stable electoral system it has also provided the basis for military intervention into national politics and for continued authoritarianism. An unofficial English version of the draft Constitution published in 2016 by the United Nations High Commissioner for Refugees (UNHCR), listed the following provisions on FoRB:
 - Section 7: The King is a Buddhist and Upholder of religions.
 - Section 31: A person shall enjoy full liberty to profess a religion, and shall enjoy the liberty to observe or perform rites according to own religion, provided that it shall not be prejudicial to the duties of Thai people, be harmful to the security of the State, and be contrary to the public order or good morals of people
 - Section 31: A person shall enjoy full liberty to profess a religion, and shall enjoy the liberty to observe or perform rites according to own religion, provided that it shall not be prejudicial to the duties of Thai people, be harmful to the security of the State, and be contrary to the public order or good morals of people.
 - Section 50: A person shall have the following duties: (1) to uphold the Nation, religions, the King, and the democratic regime of government with the King as Head of the State;
 - Section 67: The State shall patronize and protect Buddhism and other religions. With a view to patronizing and protecting the Buddhism, which has long been professed by the Thai people, the State shall promote and support education and propagation of principles thereof for the purpose of mind and intellectual development, and shall establish measures and mechanisms to prevent the Page 30 of 137 desecration of Buddhism in any form and encourage the participation of all Buddhists in the application of such measures and mechanisms.
 - The previous Constitution of B.E. 2550 (2007) had provided in Section 4 for the protection of human dignity, rights and liberties and equality of the people. Section 5, stated that Thai people, irrespective of their origins, sex or religions, shall enjoy equal protection under this Constitution. Section 30 states that "All

persons are equal before the law and shall enjoy equal protection under the law.” Section 37 provided the enjoyment of “full liberty to profess religion, religious sect or creed, and observe religious precept or exercise a form of worship in accordance with his or her belief; provided that it is not contrary to his or her civic duties, public order or good morals.” In addition, anyone exercising this right was protected “from any act of the State, which is derogatory to his or her rights or detrimental to his or benefits on the grounds of professing a religion, a religious sect or creed or observing religious precepts or exercising a form of worship in accordance with his or her different belief from that of other.”

4. Thailand is party to several international human rights treaties including the International Covenant on Civil and Political Rights (ICCPR). Article 18 stipulates the fundamental right of freedom of religion or belief.

Thailand government submissions

5. While the Government did not expressly comment on FoRB across both cycles, amidst the ongoing military junta’s rule after the 2014 *coup d’état*, a few issues related to FoRB cropped up.
6. On the conflict in South Thailand, the government stated that it was not a conflict of religious nature but was caused by social and economic inequalities resulting from past development policies, as well as ethnic and historical factors. It noted that administration of justice was an important issue in the three Southern Border Provinces.
7. Related to freedom of expression it argued that this must be exercised in a constructive manner and that free expression should not lead to insults of any faith or belief system, be they religious or main institutions.
8. In the uncertain lead up to the re-establishment of democratic rule it noted its ongoing reform agenda, spearheaded by a National Reform Steering Assembly (NRSA) to achieve political reform, public administration reform; law and justice reform and local administration reform. Amidst these reforms, the government stressed the need to impart greater human rights education and information about the UPR Process.
9. It mentioned the need to update domestic laws, and efficiency of human rights institutions. The Government needs to reform and strengthen related mechanisms consistent with international obligations, promote human rights education to embed human rights value.
10. It stated that, the political context in the country, which allegedly justified its intervention into politics, had brought about challenges requiring striking a right balance between the attempt in pushing forward reconciliation, security, national

reform and full protection of human rights, and the need to restrict certain rights and liberties of the people (such as freedom of expression and of assembly). This balance is necessary so as to prevent actions that will bring about hatred and more social divisiveness, while encouraging constructive dialogue

Stakeholder submissions across the two cycles

11. FoRB featured little among stakeholder submissions, though a few issues surfaced.
12. Structural discrimination against minority communities was noted. The prior concern of the Human Rights Committee in 2005 was raised in the UPR, in particular the plight of highlanders and the protection of their way of life. A call was made for the granting to indigenous peoples of citizenship and for the respect for their land rights, which are linked to their spiritual practices.
13. The conflict in South Thailand elicited concern from the National Human Rights Commission which reported that the violence in the Deep South was rooted in several factors including religion. It called attention to the distinct ethnic and religious identity of the local population and to ongoing violence. During 2004–2010, there were 11,523 incidents of violence, 4,370 deaths and 7,136 injuries. Human Rights Watch (HRW) also noted violence against civilians possibly for religious reasons as it called for insurgent groups to cease all attacks against civilians whatever their religion or ethnicity, and civilian objects, including schools, places of worship, and public health centers.
14. The Islamic Human Rights Commission submitted its concern regarding discrimination against Muslims practicing their religion living in Thailand which it said had been evident throughout the past. On June 8, 2009, at least 10 people were killed, including the Imam, in shootings against Muslim worshippers as they were performing the evening prayer at Al-Furqan Mosque, southern Thailand. Six gunmen disguised themselves with ski masks whilst carrying out these brutal acts. This government has failed to hold the perpetrators accountable for this act of coldly calculated violence. As a result there is an apparent deep distrust of the government.
15. The situation of the Rohingyas, a muslim minority from Myanmar that is fleeing war and persecution, was noted by The Equal Rights Trust, which submitted its view that Thailand's treatment of the Rohingya constituted a violation of its international legal obligations. In order to meet these obligations, Thailand must remedy existing human rights violations against Rohingya and review its policy with regard to the Rohingya in order to uphold its human rights obligations by them.
16. The marginalization of women in southern Thailand was also raised. The Justice and Peace Foundation noted that they faced persecution and were discredited when they come out to defend their rights which are compromised by the conservative

interpretation of religious code. Malay Muslim women are seriously under-represented in Thailand's democratic system.

17. Following the *coup d'état* by the military in 2014, HRW called for the Thai government to immediately revoke section 44 of the interim constitution and related provisions that serve as a basis for Thai authorities to repress fundamental freedoms and commit human rights violations with impunity.
18. With regard to children, in 2006, the Committee on the Rights of the Child had expressed concern about the persistence of discrimination against, inter alia, children of religious or ethnic minority communities. The United Nations Country Team noted that, despite ongoing efforts to protect children from violence, children across the country, particularly the children of ethnic and religious minorities faced significant challenges.

Observations by other states

19. In the first cycle, no specific concerns regarding FoRB were expressed, amidst concern for the uncertain political situation, serious restrictions on freedom of expression, extrajudicial killings, the treatment of migrants and the situation in South Thailand.
20. Prevent discrimination in all cases without taking consideration of grounds such as religious beliefs or national security (Spain);
21. Intensify efforts to promote policies in the area of prevention, sanction and eradication of all forms of violence against women, including measures aimed at promoting their rights regardless of its religion, race, sexual identity or social condition (Mexico).

References

General Reference

CIA *World Factbook* 2017

Draft Constitution of the Kingdom of Thailand 2016 Unofficial English Translation. June 2016. Translated by International IDEA (Australia), International Commission of Jurists (Thailand) and the Office of the United Nations Resident Coordinator in Thailand (Thailand). Accessed on line at http://www.un.or.th/wp-content/uploads/2016/06/2016_Thailand-Draft-Constitution_EnglishTranslation_Full_Formatted_vFina....pdf

References on the UPR of Thailand

Documents on the UPR of Southeast Asian States are available on the websites of UPR Info and of the OCHR. They consist of National Reports, Stakeholder Submissions and Recommendations by Peers. For Indonesia all documents are available as follows:

UPR Info: <https://www.upr-info.org/en/review>

OHCHR: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/IDIndex.aspx>

UPR First Cycle 2011

1. National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1. A/HRC/WG.6/12/THA/1. 19 July 2011
2. Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1. A/HRC/WG.6/12/THA/2. 25 July 2011
3. Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1. A/HRC/WG.6/12/THA/3. 25 July 2011
4. Report of the Working group (draft). A/HRC/WG.6/12/L.6. 7 October 2011
5. Report of the Working Group on the Universal Periodic Review. A/HRC/19/8. 8 December 2011.

UPR Second Cycle 2016

6. National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21. A/HRC/WG.6/25/THA/1. 12 February 2016
7. Compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21. A/HRC/WG.6/25/THA/2. 7 March 2016
8. Draft report of the Working Group on the Universal Periodic Review. A/HRC/WG.6/25/L.13. 19 May 2016
9. Report of the Working Group on the Universal Periodic Review. A/HRC/33/16. 15 July 2016

