

UNDERSTANDING  
**OUR** RIGHTS : **HUMAN** RIGHTS

Asian Institute for Human Rights

Understanding Our Rights: Human Rights  
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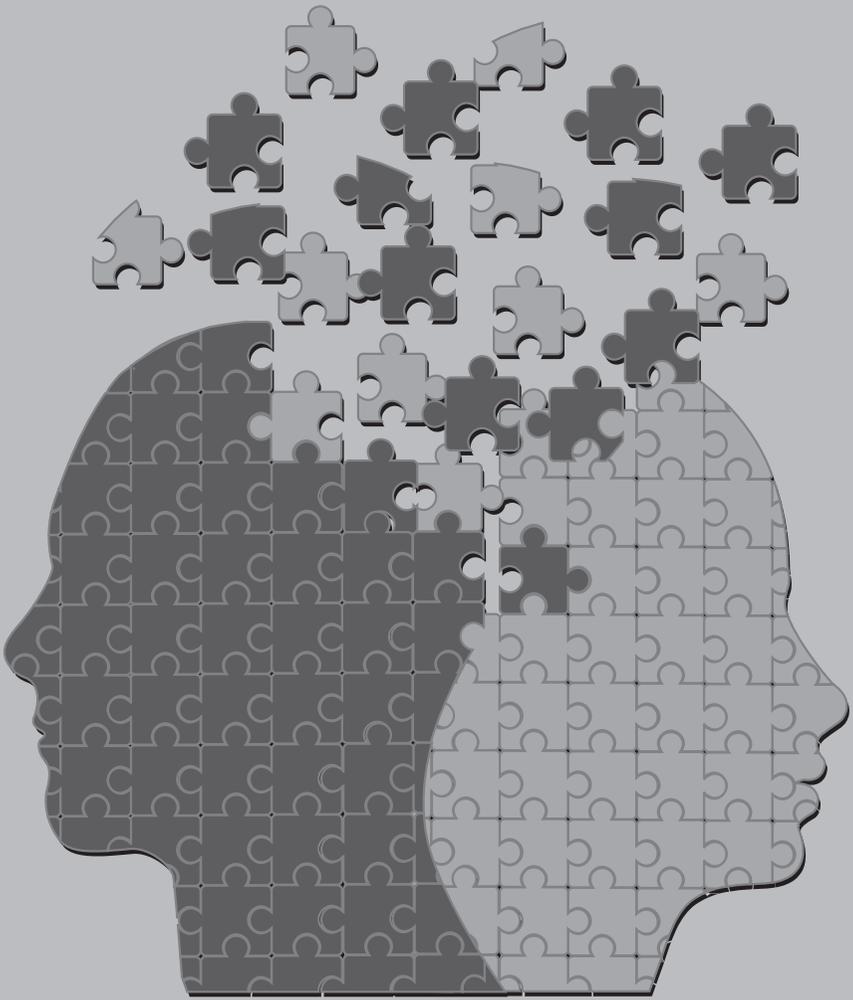
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# UNDERSTANDING OUR RIGHTS : HUMAN RIGHTS

Asian Institute for Human Rights



# PREFACE

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Nowadays, we increasingly see various groups of people marching or rallying to demand their rights. We too may have done so some time in our lives. Yet, we notice that such campaigns often end up in quarrels and even violence, rather than lead to more peaceful lives. Some may say that such is the nature of things. Others think otherwise, that such campaigns should cease, for instance. 'Stop rocking the boat!' they say. And it goes on.

Would it not be better to 'Stop, listen and hear, and think' and search our souls for what we have in common?

This is the opening message of this book. It suggests that all individuals have an 'inner worth' or 'dignity' inherent in them as human beings. It goes on to say, 'the concept of human rights articulates freedoms that every member of society has as human beings who are worthy of respect' (p.2 - my emphasis).

As I understand it, what we human beings have in common is freedom(s) rather than rights. In other words, we were all born free; all the shackles came afterwards. Why is it argued such?

The history of Western thought has it that we humans are different from other animals in that we have the capacity to think, to reason, and therefore to be creative and constructive. This is what we human beings have in common; and it is this that we should respect in other human beings, regardless of age, gender, ethnicity, religion, etc. This is what we mean by 'human dignity'.

So I would prefer to say, 'freedom and rights' in that order. Rights came after or from freedom. 'Human rights' are what people from around the world have enumerated so that we are clearer what our (human) freedom is, so that we can get a handle on our freedom.

But then, isn't 'human rights' a Western concept? Well, while it was in the West that the concept was articulated, it does not necessarily mean that human rights are exclusively Western. Why? Because, as I said, people from around the world participated in the enumeration of freedoms that they all recognized as inherently human.

Maybe, that is not a very good answer. This book's opening has tried to answer it in another way, simply by giving a list of quotes from eight religions or belief systems of many cultures (p.4) to show that they share a common ethic: that we should treat other human beings with respect...because they are human beings like us. That is what the greatest world thinkers have come up with, after having 'searched their souls'.

So, one purpose of this book is to encourage you, readers, to search your souls whether there are, at core, some very real notions of human freedoms and human rights within the cultures, religions and ways of life of your own societies. You are also advised to scrutinize your countries' constitutions, laws and other legal instruments, and processes, as to whether they conform to or deviate from such notions. Furthermore, you are urged to look at them in comparison with what are called 'international human rights laws (IHRL)'.

The book tries to make this latter task easier by delineating the numerous rights and freedoms that are internationally recognized. They are briefly but succinctly explained, each accompanied by a table of the relevant items in the IHRL and the respective national constitutions.

The Asian Institute for Human Rights (AIHR) hopes that this book serves the purpose of making it easier to understand our rights as human rights, which are at root concerned to itemize and give

form to the freedom that we all have as human beings. Once they are thus understood, as things that bind us together rather than that divide us, then it should be more feasible for us to live together in peace, sharing, in human rights, a value system that has commonalities in the religions and belief systems of the world.

Practitioners of human rights should also find the book a user-friendly handbook as they attempt to negotiate conditions for better recognition and protection of rights and freedoms in the concrete cases with which they find themselves dealing. They are reminded, as sections of this book does, that the ideal attitude to be adopted in human rights work is not necessarily or only to oppose states/governments that do not honour their human rights obligations but also to nudge, encourage and work with them to bring to fruition what should be our common goal in the name of humanity.

AIHR is ever ready to consider constructive criticisms of this publication and suggestions for its improvement.

It remains for me to express my admiration for the unstinting efforts Kalpalata Dutta, our Director, Sothonsinee Supanusorn, our Programme Coordinator, and others have made in making this publication possible.

Prudhisan Jumbala  
Chairperson  
Asian Institute for Human Rights (AIHR)

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## GLOSSARY

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- Accede/Accession: ‘Accession’ is an act by which a State signifies its agreement to be legally bound by the terms of a particular treaty. It has the same legal effect as ratification, but is not preceded by an act of signature.
- Convention Formal, written agreements between State parties that require the performance of some action. They are also known as treaties or covenants.
- Declaration A statement by States that is not legally binding on them.
- General Comments Produced by Treaty Bodies to clarify the meaning and content of rights and obligations.
- Impunity The impossibility, de jure or de facto, of bringing the perpetrators of violations to account - whether in criminal, civil, administrative or disciplinary proceedings. It arises from failures of States to meet their obligations to investigate violations, to take appropriate measures against perpetrators and to provide effective remedies to the victims.
- Interpretative Declarations A State may make a declaration about its understanding of a matter contained in or the interpretation of a particular provision in a treaty. Interpretative declarations of this kind, unlike reservations, do not purport to exclude or modify the legal effects of a treaty. The purpose of an interpretative declaration

is to clarify the meaning of certain provisions or of the entire treaty.

Non-Derogable rights

Rights may also be characterized as derogable (able to be taken away) or non-derogable. Article 4 of the International Covenant on Civil and Political Rights (ICCPR) provides for a derogation power, which allows States to temporarily suspend the application of some rights in the exceptional circumstance of a 'state of emergency' and subject to certain conditions, including official notification.

Norms (human rights)

A standard against which the actions of the State are measured. These standards are provided for in human rights treaties and declarations.

Obligations

Human rights are based on a relation between two parties; the claimant of the right and the entity which has an obligation to ensure that the claim is met. Each right carries with it a corresponding obligation on the State. There are three kinds of obligations; *Obligation to respect*: the State must not destroy a standard.

*Obligation to protect*: the State must act to stop others from violating a human rights standard.

*Obligation to fulfill*: the State has to take appropriate measures to ensure that human rights standards are attained.

Individuals are also obliged to uphold the rights of others.

- Ratify/Ratification** ‘Ratification’ is an act by which a State signifies an agreement to be legally bound by the terms of a particular treaty. To ratify a treaty, the State first signs it and then proceeds to take steps to fulfill its own national legislative requirements. Once the State follows the domestic constitutional procedures and makes a formal decision to be a party to the treaty, the instrument of ratification is prepared and deposited with the United Nations Secretary-General in New York.
- Reservation** The exceptions that State parties make to a treaty (e.g., provisions that they do not agree to follow). Reservations, however, may not undermine the fundamental meaning of the treaty.
- Special Rapporteur** Are independent experts appointed by the Human Rights Council to address human rights mandates. They examine, monitor, advise and publicly report on human rights situations in specific countries (country mandates) or on major phenomena of human rights violations worldwide (thematic mandates). The Special Rapporteurs report to the Human Rights Council on their findings and recommendations. They are sometimes the only mechanism that alerts the international community on certain human rights issues. The experts work on a voluntary basis.
- State party** A ‘State party’ to a treaty is a country that has ratified or acceded to that particular

treaty, and is therefore legally bound by the provisions in the treaty.

Treaty body

A committee of independent experts appointed to monitor the implementation by States parties of the core international human rights treaties. They are called ‘treaty bodies’ because each body is created in accordance with the provisions of the treaty which it oversees. They are also known as the ‘committee’ or ‘treaty-monitoring body’.

Violations of Human rights

Failure of a State with regard to one of its obligations under human rights norms. In cases where actions of private parties or entities impair the recognition of rights, States have an obligation to take appropriate measures or exercise due diligence in preventing, punishing, investigating or redressing the harm caused by such actions. A failure to take appropriate measures or exercise due diligence in such cases results in rights violations by the State.

## ACRONYMS

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CAT	Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, 1984
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women, 1979
CESCR	Committee on Economic, Social and Cultural Rights (treaty body that monitors the implementation of the ICESCR by its State parties)
CRC	Convention on the Rights of the Child, 1989
DPFSP	Directive Principles of Fundamental State Policies enshrined in Chapter V of the Constitution of Kingdom of Thailand (2007)
HRC	Human Rights Committee (treaty body that monitors the implementation of the ICCPR by its State parties)
ICCPR	International Covenant on Civil and Political Rights, 1966
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination, 1966
ICESCR	International Covenant on Economic Social and Cultural Rights, 1966
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance, 2006
IHRL	International Human Rights Law
UDHR	Universal Declaration of Human Rights, 1948

## **CORE INTERNATIONAL HUMAN RIGHTS TREATIES AND STATUS OF ACCESSION/RATIFICATION BY THAILAND**

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<b>Treaty</b>	<b>Status of accession/ ratification</b>
International Convention on the Elimination of All Forms of Racial Discrimination, 1966	Accession on 28th January, 2003
International Covenant on Civil and Political Rights, 1966	Accession on 29th October, 1996
International Covenant on Economic, Social and Cultural Rights, 1966	Accession on 5th September, 1999
Convention on the Elimination of All Forms of Discrimination Against Women, 1979	Accession on 9th August, 1985
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984	Accession on 2nd October, 2007
Convention on the Rights of the Child, 1989	Accession on 27th March, 1992
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990	No action
Convention on the Rights of Persons with Disabilities, 2006	Ratification on 29th July, 2008
International Convention for the Protection of All Persons from Enforced Disappearance, 2006	Signed on 9th January, 2012







**PART – I**  
**Basics of Human Rights**

## THE NOTION OF HUMAN RIGHTS

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All individuals have an ‘inner worth’ or dignity. This, being inherent to a person, commands respect from fellow human beings and at the same time imposes a duty on every person to respect the dignity of others.

The concept of human rights articulates freedoms that every member of a society has as human beings who are worthy of respect. Such freedoms include freedom from torture, freedom of expression, freedom of religion, etc. Human rights also prescribes certain preconditions or guarantees, such as the right to security of life, right to food, education or health, that enable a person to live a life of dignity and give expression to their inner worth.

Respect for the human dignity of all persons is fundamental to the notion of human rights. Yet, the concept of human dignity has no simple definition. Different groups, cultures and religions may understand it in their own particular ways. As the historical development of human rights has shown, the ideas and practice of human rights have given shape to our understandings of human dignity. And the ‘ability to live a life of dignity’ has provided the moral force to the practice of human rights.

Just like a sapling has the potentiality to grow and bloom into a tree, every human person has an inner worth or potentiality. Just as the sapling needs protection from disease and animals, soil, sunshine and water so that it can grow to its full potential, so does a human person need an enabling environment to give expression to his/her inner worth and dignity. This enabling environment is made up of freedoms and rights, or human rights.

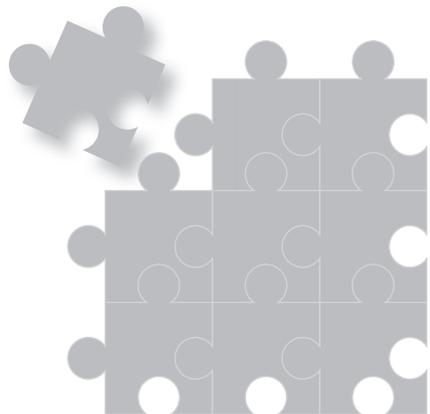


## **PRINCIPLE OF UNIVERSALITY OF HUMAN RIGHTS**

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The principle of universality emphasizes that all human beings are equal in dignity and rights. Everyone is entitled to all the rights and freedoms without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The principle of universality has roots in different cultural and religious traditions around the world, all of which similarly believe in the ethic of common humanity that recognizes that the dignity of all individuals ought to be respected.



**Expressions of the ethic of common humanity in different cultures and religions from around the world (Source Amnesty, 1992, 10–11)**

Brahmanism: “Do naught unto others which would cause you pain if done to you.” The Mahabharata

Buddhism: “Hurt not others in ways that you yourself would find hurtful.” Udana-Varga: 5,18.

Christianity: “Always treat others as you would like them to treat you.” New Testament. Matthew 7:12

Confucianism: “Do not unto others that you would not have them do unto you.” Analects, XV, 23.

Islam: “No one of you is a believer until he desires for his brother that which he desires for himself.” Sunnah.

Judaism: “What is hateful to you, do not to your fellowmen.” The Talmud, Shabbat, 31a.

Taoism: “Regard your neighbour’s gain as your own gain, and your neighbour’s loss as your own loss.” T’ai Shang Kan Ying P’ien.

Zoroastrianism: “That nature alone is good which refrains from doing unto another whatsoever is not good for itself.” Dadistan-i-dinik, 94:5.



## **WHERE ARE THE RIGHTS CODIFIED?**

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Human Rights are codified in national constitutions and regional and international human rights treaties.

Chapter III of the Constitution of Kingdom of Thailand B.E. 2550 (A.D. 2007) enshrines rights and liberties.

Since 1945, the United Nations has developed a considerable body of law in the form of international human rights treaties/conventions, declarations and principles.

Regions such as Europe, the Americas and Africa have developed regional human rights instruments such as the European Convention of Human Rights 1950, The American Convention on Human Rights 1969 and the African Charter on Human and Peoples Rights 1981.

Since the establishment of the ASEAN Inter-governmental Commission on Human Rights (AICHR) in 2010, there is a movement towards developing an ASEAN Declaration on Human Rights. However, even before the establishment of AICHR, ASEAN nations have come together to address regional issues that impact on the rights of vulnerable groups. They have developed common standards for addressing issues, such as the ASEAN Declaration Against Trafficking in Persons particularly Women and Children (2004) and ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (2007).

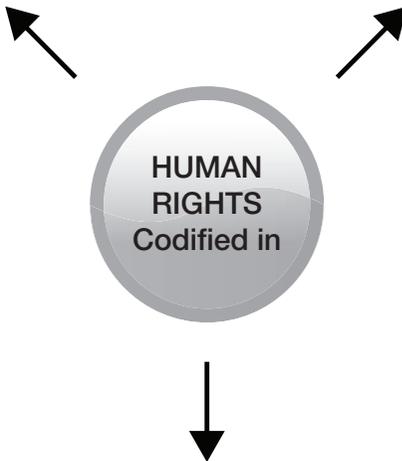
## WHERE ARE THE RIGHTS CODIFIED?

### National level

*Constitution, Statutory Law,  
Rules, Regulations,  
Judicial Decisions,  
Policies, Programs, etc.*

### International Level

*Human Rights  
Treaties/Conventions,  
Principles, Declarations,  
etc.*



### Regional Level

*Conventions, Declarations, etc.  
developed by the community  
of States in different regions*

## **CORRELATES OF RIGHTS: OBLIGATIONS**

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Every right has a corresponding duty or obligation. It can be said that the framework of rights describes a network of relationships between rights holders and duty bearers.

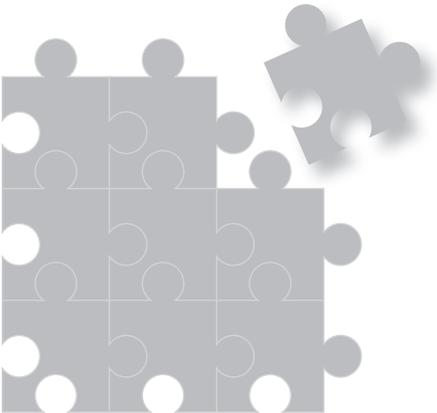
Under human rights law, the 'rights holders' are individuals living under the jurisdiction or control of a State and the 'duty bearer' is the State. The State has the obligation to ensure that rights of individuals are respected, protected and fulfilled. In other words, the State has to restrain itself from interfering with the enjoyment of rights, take action to protect the enjoyment of rights in case they are threatened by the actions of others as well as take appropriate measures to ensure that human rights standards are attained and fulfilled in the State. This primary relationship between rights of individuals and obligations of the State generates duties at other levels as well.

When a State ratifies or accedes to an international/regional human rights treaty, it gives a commitment to ensure that individuals within its jurisdiction are able to enjoy their rights. The State also enters into a commitment to submit reports to the monitoring mechanisms established at the regional or international level regarding the progress made by the State in securing the enjoyment of rights by the people within its jurisdiction.

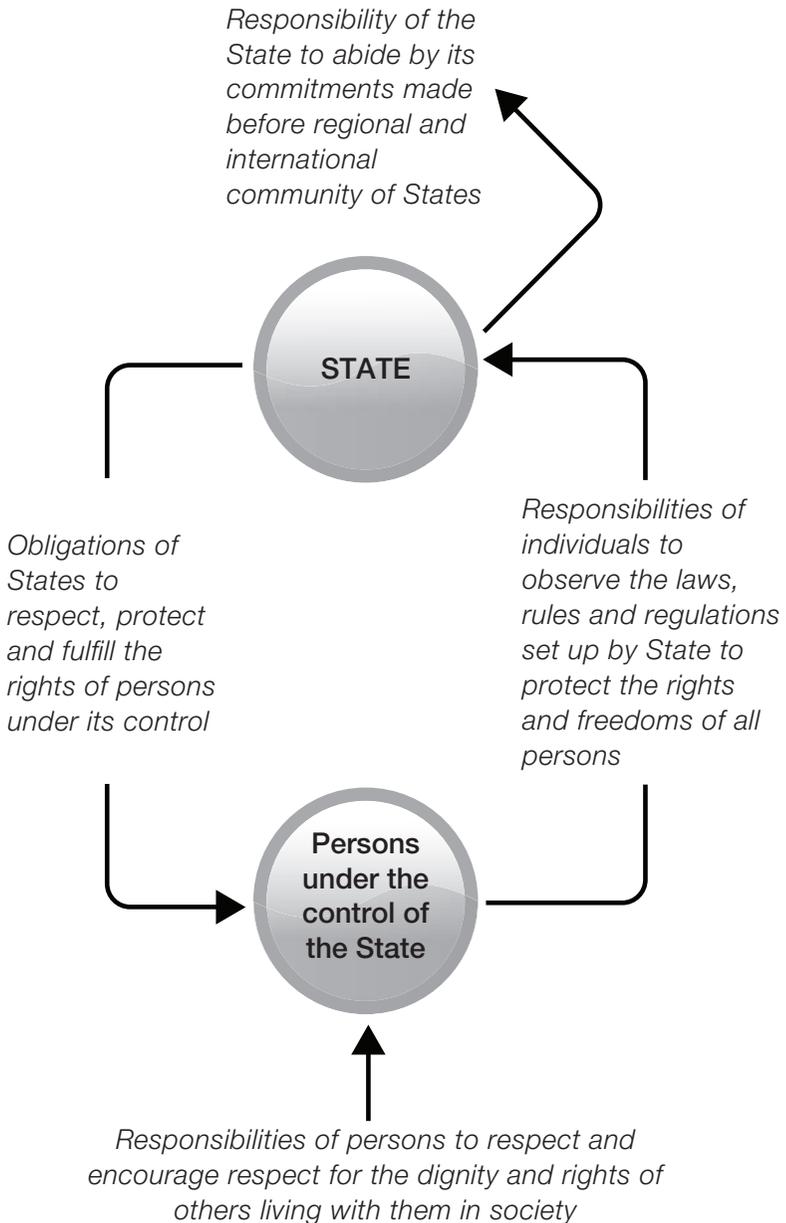
At the level of the 'rights holders', individuals have a responsibility to respect and encourage respect for the dignity and rights of all other persons with whom they are living together in a society. Individuals also have the responsibility to respect the laws, rules and regulations established by the State to secure the rights and freedoms of all persons. Traffic rules, on the face of it, may not appear to have any relation to human rights. But non-observance of traffic rules may cause accidents resulting in the loss of life

or injuries to others. By paying taxes as required under the law, individuals contribute to the State's ability to fulfill human rights. Similarly by exercising their right to vote and participation in an informed manner, individuals play a role in governance and decision-making process of the State.

This network of rights, obligations and duties helps in developing a culture of human rights.



## CORRELATES OF RIGHTS: OBLIGATIONS



## THE RIGHTS FRAMEWORK

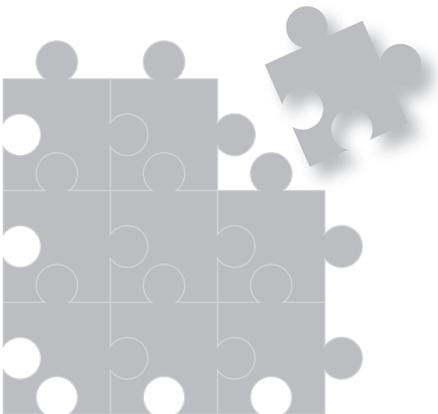
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The rights framework helps to assess the progress of the State towards securing enjoyment of rights for all persons. It also helps to identify clearly the nature of human rights violations.

Individuals are holders of rights. States have corresponding obligations to respect, promote and protect the rights. The scope and content of the rights and obligations are derived from Constitution, national laws, rules, regulations, judicial decisions, national policies and international and regional human rights treaties and agreements.

A violation of rights happens when the State fails to comply with its corresponding obligations.

This framework of assessing actual facts against rights and corresponding State obligations, to identify human rights violations and appropriate remedial action is known as the rights framework.



The difference between investigative journalism and human rights fact-finding is that a journalist when reporting on his/her findings may not use strict standards to evaluate whether or not there has been a human rights violation. Human rights organizations, on the other hand, evaluate the information collected by applying human rights standards or norms to establish if there has been a human rights violation.

Organizations engaged in fact-finding or interested in fact-finding should have a clear understanding of the standards that can be used for defining human rights violations and for evaluating information gathered through fact-finding.

There are several possible standards against which a human rights organization might judge a government's human rights practice. Those standards include laws of the country, in as far as they are consistent with the international standards, international and regional human rights treaties to which the nation is a party, and other prevailing international human rights and humanitarian norms.

It is therefore important for those engaged in human rights fact-finding to acquire basic knowledge of norms established under the Constitution and other laws of the country and international human rights and humanitarian standards. However, it is not suggested that fact-finders should use the standards in a strict judicial manner. These standards should be used as tools to determine the scope of investigation and to establish whether a human rights violation has occurred in an area or country. Application of standards also helps domestic organizations to monitor the compliance of their respective governments with obligations under legally binding human rights instruments.

**Source : Handbook on Fact-Finding and Documentation of Human Rights Violations, Asian Forum for Human Rights and Development, 1994.**

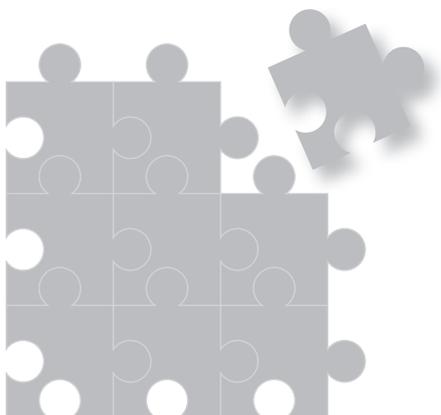


*Example:*

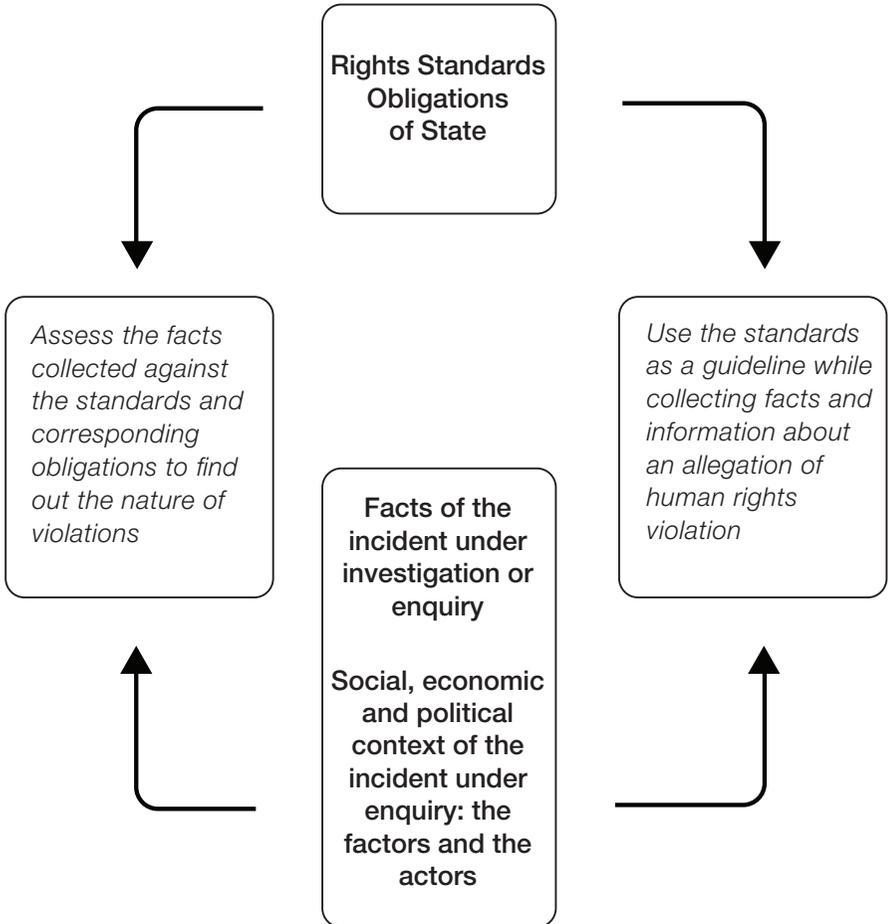
*On midnight of 19th March, 6 villagers were arrested from Rueso District. A relative of one of the arrested persons gave this information to a legal aid organization and requested for their assistance. How should one proceed in such case?*

*To begin with, it is useful to have clear understanding of the existing standards related to arrests and detentions. Such knowledge would help in formulating specific questions during fact-finding. One also needs to be aware of the context of the case. For example, is the Emergency Decree applicable in Rueso District? Which are the different law enforcement units operating in the area? Are there private vigilante groups? Were there any significant events that led to the arrests? Is there a pattern of arrests being conducted at midnight? All this information taken together has to be analyzed in order to assess the nature of violations, if any.*

*This framework of analysis can be illustrated as:*



## ANALYTICAL FRAMEWORK OF HUMAN RIGHTS VIOLATIONS



## **USE OF NATIONAL LAW AND INTERNATIONAL HUMAN RIGHTS LAW**

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A question often arises as to when and how do we use international human rights law? In all cases, it is useful to be familiar with the relevant international provisions. If a State has ratified or acceded to an international human rights treaty, it is obliged to bring its national constitution and laws into line with the provisions of the treaty. So the first step is to analyze the national constitution and laws to determine whether they are in line with these rights commitments.

In some situations there are no national constitutional or legal provisions protecting a right. In these situations, the only protection available may be under international laws.

In some cases, constitutional provisions and laws are stated in brief or in vague terms. Legislative records or court cases may offer suggestions as to how the provisions in the constitution or laws are to be understood or interpreted. International law, judicial decisions and other documents can also help to 'fill out' the meaning of brief or vague terms in national laws and constitutions.

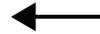
In some cases, national constitutions may be weak and the related international laws may be stronger. In such cases, it may be useful to rely primarily on the latter.

## USE OF NATIONAL LAW AND INTERNATIONAL HUMAN RIGHTS LAW

Are the national constitution and laws in line with the country's regional and international human rights obligations?



If rights provisions in the national constitution and laws are strong and clear, use them!



If national constitution and laws provide no rights protection



Look to regional and international laws for rights guarantees

If national rights guarantees are vague



Use regional and international standards to "fill out" the rights

If national rights guarantees are weak



Use the stronger regional or international standards

(Source from: Dignity Counts – A Guide to Using Budget Analysis to Advance Human Rights)

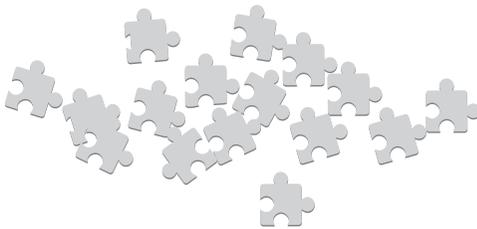
## HUMAN RIGHTS BASED APPROACH

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A human rights based approach to an issue uses rights guaranteed in national and international human rights law to hold States accountable for their actions or omissions.

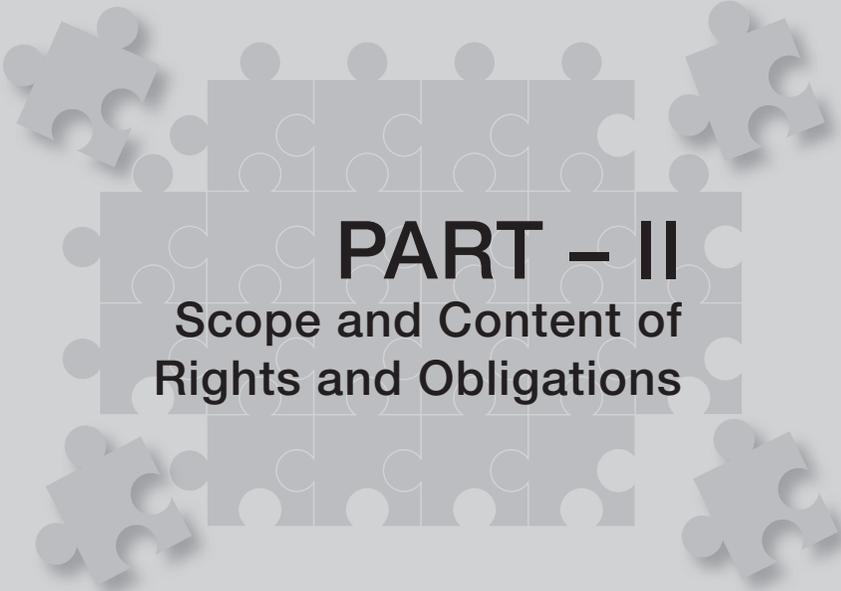
Human rights-based approach is founded on the notion that all persons are holders of rights on the basis of equality and non-discrimination. A State has an obligation to take appropriate measures to ensure enjoyment of the rights. In cases where a State fails in its obligation, the affected persons (or persons acting on their behalf) are entitled to institute proceedings for appropriate redress before a court or other mechanisms established under the law.

At the center of human rights-based approaches are the people and their right to participation. All persons have the right to participate in the process of public decision-making and to have access to information thereof since such decision-making affects their lives and well being. The principle of participation ensures that communities and affected groups are involved in identifying the problems, in setting goals and priorities and in setting up mechanisms for securing the enjoyment of the rights.









**PART – II**  
Scope and Content of  
Rights and Obligations

## INTRODUCTION

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Chapter I of the Constitution of the Kingdom of Thailand (2007) states the general principles which form the basis of democratic regime of the government with the King as the head of the State. Some articles that are important for promotion and protection of human rights are:

**Article 4:** The human dignity, right, liberty and equality of the people shall be protected.

**Article 5:** The Thai people, irrespective of their origins, sexes or religions shall enjoy equal protection under its Constitution.

**Article 6:** The Constitution is the supreme law of the State. The provisions of any law, rule or regulation, which are contrary to or inconsistent with this Constitution, shall be unenforceable.

Chapter III of the Constitution enshrines rights and liberties.

**Article 26** states that, all State authorities while exercising their powers should give regard to human dignity and rights and liberties guaranteed in the Constitution.

**Article 27** of the Constitution states that all State organs would be bound by the rights and liberties guaranteed in the Constitution while enacting, applying and interpreting laws.

**Article 28** states that the rights and liberties exercised by a person should not violate the rights and liberties of other persons and should not be contrary to the Constitution or good morals. In cases where the constitutional rights and liberties of a person are violated, the person has the right under the Constitution to file a lawsuit against the State and seek redress for such violations.

**Article 28** also imposes an obligation on the State to enhance, support and assist all persons in the exercise of their rights.

Chapter IV enumerates duties of the Thai people. Some duties that are related to human rights are:

**Article 70** states that every person has the duty to uphold the democratic regime of government with the Monarch as the head of State.

**Article 72** states that every person has the duty to exercise the right to vote at elections.

**Article 73** states that every person has the duty, amongst other things, to render assistance in providing public calamity prevention and rehabilitation, pay taxes, receive education and training, protect, preserve and pass on the national arts and culture and local wisdoms, and preserve natural resources and the environment as required by law.

**Article 74** states that all government officials or employees of government or State agencies or local government organizations have a duty to act in compliance with the law in order to protect public interests, and provide convenience and services to the public according to the good public governance principle.

Chapter V enshrines guidelines for legislating and determining policies for the administration of State affairs. It provides guidelines for:

- Administration of State affairs and delegation of powers to local governments (**Article 78**)
- Policies on religions (**Article 79**)
- Policies on social, public health, education and culture (**Article 80**)
- Policies of Law and Justice (**Article 81**)
- Economic Policies (**Article 83 , Article 84**)
- Policies on Land Use, Natural Resources and Environment (**Article 85**)
- Policies on Science, Intellectual Properties and Energy (**Article 86**)

- Policy on Public Participation (**Article 87**)

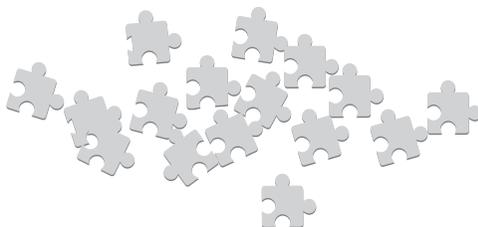
Chapter X deals with the Judiciary and scope of the Constitutional Court to review the constitutionality of laws.

**Article 212** provides that any person whose rights and liberties are violated by the provisions of any law can submit an application before the Constitutional Court. On receiving such application, the Court will review the law in question and determine whether its provisions are contrary to or inconsistent with the Constitution or not.

Under **Article 154** of the Constitution, questions regarding the constitutionality of bills can also be referred to the Constitutional Court.

Chapter XI provides for the setting up independent organizations. Some of these organizations that are relevant to the promotion and protection of rights are the Ombudsmen, the National Counter-Corruption Commission, the Public Prosecutors, the National Human Rights Commission and the National Economic and Social Advisory Council.

This section has described in short the constitutional scheme for the protection and promotion of rights and liberties. The next section describes the nature of State obligations, the scope and content of the different rights and the source of the rights in national and international law.



## 1. Obligations of States to ensure protection and promotion of human rights

States have the general obligation to respect, protect and fulfill human rights.

- The obligation to respect requires States to refrain from violating rights.
- The obligation to protect requires State parties to prevent violations of rights by third parties. This obligation implies that States have to exercise due diligence to prevent, punish, investigate or redress the harm caused by acts of private persons or entities.
- The obligation to fulfill requires States to take appropriate legislative, administrative, budgetary, judicial, educative and other measures to ensure that every person is able to realize their basic rights.

Article 2 of the International Covenant on Civil Political Rights (ICCPR) defines the scope of obligations of State parties to the ICCPR. General Comment No. 31 of the Human Rights Committee (HRC) explains the nature of legal obligations. It elaborates that:

- States have an obligation to respect rights and ensure them to all individuals in their territories and subject to their jurisdiction, without discrimination. This implies that a State must respect and ensure the rights to everyone within its effective control. Thus the enjoyment of rights is not limited to citizens of States but also available to all individuals, regardless of nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State party.
- States should adopt legislative, judicial, administrative, educative and other appropriate measures in order to fulfill their legal obligations.

- In cases where actions of private parties or entities impair the enjoyment of rights, States have an obligation to take appropriate measures or exercise due diligence in preventing, punishing, investigating or redressing the harm caused by such actions. A failure to take appropriate measures or exercise due diligence in such cases results in rights violations by the State.
- States should ensure that all individuals have accessible and effective remedies to defend and protect their rights. This implies that:
  - The right to effective remedy should be available and accessible even in those cases where violations have been committed by persons acting in official capacity of the State. In cases where public officials or State agents have committed violation of rights relating to torture, cruel, inhuman and degrading treatment, extra-judicial/summary or arbitrary execution and enforced disappearances, the State cannot relieve the perpetrators from personal responsibility through amnesties, prior legal immunities or indemnities. ‘Official status’ of the person accused for such violations or the defense of ‘obedience to superior orders’ does not justify immunity from legal responsibility. A State has the obligation to take measures to prevent the recurrence of rights violations as impunity for such violations may contribute to their recurrence.
  - States should ensure that appropriate judicial and administrative mechanisms are established under the domestic law for addressing claims of rights violations.

The Human Rights Committee has explained that the judiciary can effectively assure recognition of rights

guaranteed under international human rights treaties in different ways, such as direct application of the Covenant, application of comparable constitutional or other provisions of law, or using the Covenant as an interpretive standard in the application of national law.

The Human Rights Committee has further clarified that appropriate administrative measures include setting up of independent and impartial bodies which are able to investigate allegations of violations promptly, thoroughly and effectively.

- States should ensure that reparations are made to individuals whose rights have been violated. Reparations include, where appropriate, restitution, rehabilitation, public apologies, public memorials, guarantees of non-repetition, and changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations.

Article 2 of the International Covenant on Economic Social Cultural Rights (ICESCR) defines the scope of obligations of State parties to the ICESCR. Under Article 2, each State party undertakes to take steps to the maximum of its available resources for achieving progressively, the full realization of the rights guaranteed in the Covenant, by all appropriate means including the adoption of legislative measures.

The State also undertakes the responsibility to guarantee the rights enshrined in the Covenant without discrimination of any kind. General Comment No. 3 of the Committee on Economic Social Cultural Rights (CESCR) explains the nature of legal obligations. It elaborates that:

- The phrase ‘to take steps’ implies that the steps taken by the State should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the Covenant.
- The phrase ‘all appropriate means’ include the provision of administrative, financial, educational, social measures as well as judicial remedies such as those which States are obligated to provide under the ICCPR. Under most national systems economic, social and cultural rights such as the right to equality and non-discrimination, the right to receive fair and equal wages, the right to due process of law in case of evictions are capable of immediate application.
- The concept of ‘progressive realization’ recognizes the fact that it is not possible to achieve full realization of all economic, social and cultural rights in a short period of time. The obligation of progressive realization requires the State to move as expeditiously and effectively as possible towards the goal of full realization. It requires the State to demonstrate that they are making every effort to improve the enjoyment of economic, social and cultural rights, even when resources are scarce. It also implies that the State should ensure that there is a continuous improvement in the enjoyment of rights and there are no regressive developments. Some examples of steps that can be taken by States towards progressive realization of rights are:
  - Formulating strategies, plans, incorporating indicators and time bound targets that are realistic, achievable and designed to assess progress in the realization of these rights.
  - Adopting necessary laws and policies and making adequate funds available to put the plans and strategies into practice.

- Regularly monitoring and assessing the progress made in the implementation of the plans and strategies.
- Establishing grievance mechanisms so that individuals can complain if the State is not meeting its responsibilities.

### **IHRL**

ICCPR: Art.2, Art.4

ICESCR: Art.2, Art.4

HRC: General Comment 31

CESCR: General Comment 3 and 9

### **2007 Constitution of Thailand**

Art.4: Protection of human dignity, right, liberty and equality of the people.

Art.6: Laws, rules and regulations inconsistent with Constitution shall be unenforceable.

Art.26: State while exercising its powers should consider human dignity, rights and liberties as guaranteed in Constitution.

Art.27: All State organs are bound by rights and liberties guaranteed in Constitution while enacting, applying and interpreting laws.

Art.28: A person whose rights and liberties are violated can file a lawsuit against the State.

Art.28: State has obligations to enhance, support and assist all persons in the exercise of their rights.

State obligations described in relation to different rights in the following pages should be read together with the obligations of States described in Art.2 of ICCPR and Art.2 and Art.4 of ICESCR. Other international treaties also elaborate on State obligations.



## 2. Right to equality and non-discriminatory treatment

All persons are equal in dignity and rights. All persons should have the opportunity to enjoy their rights on an equal basis with others.

A violation occurs when there is:

- any distinction, exclusion, restriction against or preference for a person,
- based on sex, race, color, religion, language, political or other beliefs, sexual orientation, national or social origin, birth, property or other status,
- and which has the purpose or effect of
- nullifying or impairing the recognition, enjoyment or exercise of human rights on an equal footing.

The right to equality and non-discriminatory treatment is linked with the recognition, enjoyment and exercise of all rights. State obligations, in general, include:

- Reviewing laws, policies and programs and where necessary amending them in order to ensure that they do not discriminate or lead to discrimination in relation to the exercise and enjoyment of human rights.
- Refraining from discriminatory practices in implementing laws, regulations and programs.
- Taking concrete, deliberate and targeted measures to ensure that discrimination in the exercise and enjoyment of rights is eliminated.
- Ensuring that measures taken during times of public emergency do not involve discrimination solely on the ground of race, color, sex, language, religion or social origin.

## IHRL

UDHR: Art.1, Art.2, Art.7

ICCPR: Art. 2(1), Art.3, Art.4, Art.14(1), Art.24, Art.26

ICESCR: Art.2(2), Art.3

CEDAW: Art.1, Art.2

ICERD: Art.1

CRC: Art.2

HRC: General Comment No. 28 and 32

CESCR: General Comment No. 16 and 20

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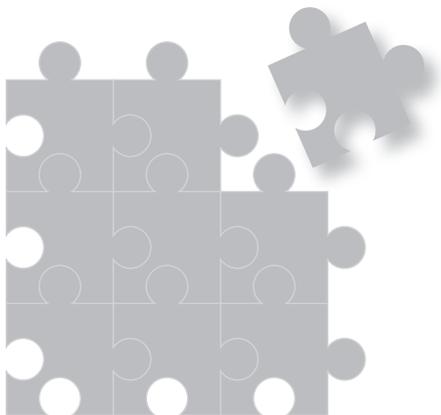
## 2007 Constitution of Thailand

Art.5: Thai people, irrespective of their origin, sexes or religions, shall enjoy equal protection.

Art.30: All persons are equal before law and enjoy equal protection under law. Men and women enjoy equal rights. Unjust discrimination based on grounds of origin, race, language, sex, age, disability, physical or health condition, personal status, economic or social standing, religious belief, education or constitutionally political view shall not be permitted.

Art.49: All persons shall enjoy an equal right to receive education.

Art.51: A person shall enjoy an equal right to receive standard public health service.



### 3. Right to life

Every human being has the inherent right to life.

The State or its agents cannot arbitrarily or unlawfully deprive a person of his/her life. States cannot derogate from its obligations arising from this right even in times of public emergency which threatens the life of the nation.

The State must adopt measures that are conducive to allowing persons to live with human dignity. States must ensure that people within its jurisdiction have access to basic subsistence needs. States must exercise control over private entities so as to prevent and punish deprivation of life by criminal acts.

#### **IHRL**

UDHR: Art.3

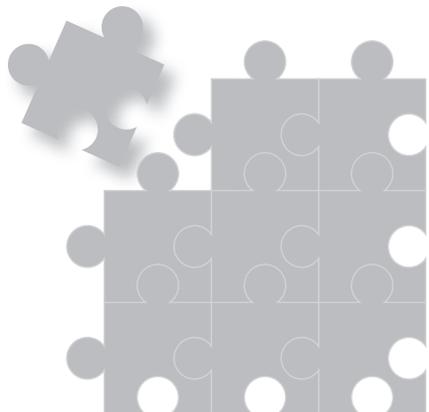
ICCPR: Art.6

HRC: General Comment No. 6

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#### **2007 Constitution of Thailand**

Art.32(1): A person shall enjoy right and liberty in life and person.



#### 4. Freedom from extra-judicial, summary or arbitrary execution

Every person has the right to life and security of person.

A violation occurs when there is deprivation of life of a person:

- outside any due judicial process,
- as a result of an act or an order,
- by a State actor or by any other person acting with the complicity, tolerance or consent of the State.

In order to ensure protection of this right the State must ensure that persons responsible for the violations are brought to justice. The State must remove impediments to the establishment of legal responsibility such as 'official status' of the accused or defence of 'obedience to superior orders'.

The Special Rapporteur on extra-judicial killings has explained the obligations of States in cases of extra-judicial killings by non-state actors<sup>1</sup> :

- A State has direct responsibility for the actions of non-state actors that operate at the behest of the State or with its acquiescence. Examples include private militias, paramilitary groups and death squads controlled by the State.
- A State has direct responsibility for the actions of private contractors (including military or security contractors), corporations and consultants who engage in core State activities such as prison management, law enforcement or interrogation.
- In most cases, private killing is an offence that is addressed under the criminal law of the State. However, when there is a pattern of killings and the State does not exercise due diligence in taking

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<sup>1</sup> E/CN.4/2005/7, para 65-76

appropriate measures to deter, prevent, investigate, prosecute and punish the perpetrators, then the inaction of the State or the inadequacy of its response results in violation of the right to life. Examples of such killings can be honor killings or killings of witches, killings by vigilante groups or murders by criminal gangs.

Non-state armed groups who are parties to an armed conflict are directly responsible for any killings they commit in violation of international humanitarian law.

The State also has an obligation not to extradite, deport, expel or otherwise remove a person from its territory, when there are substantial grounds for believing that the person may be a victim of extrajudicial killing in the country where he/she is removed to or in the country in which he/she is subsequently to be removed.

An arbitrary deprivation of life also occurs when a death penalty is applied as a result of a summary proceeding wherein due process guarantees (such as those mentioned in Article 14 and 15 of the ICCPR) are limited, omitted or distorted. The right to life is non-derogable and should be protected even during times of public emergency. Thus any trial leading to the imposition of death sentence during time of emergency must conform to all due process guarantees mentioned in Article 14 and 15 of ICCPR.

#### **IHRL**

UDHR: Art.3

ICCPR: Art.6 and Art.4

HRC: General Comment No. 6 and 29

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#### **2007 Constitution of Thailand**

Art.32(1): A person shall enjoy right and liberty in life and person.

Art.32(4): any action affecting right and liberty in life and person of individual shall not be taken except by virtue of the law.

## 5. Freedom from death threat

Every person has the right to life and security of person.

A violation occurs when:

- there is any action or statement,
- which may be explicit or implicit,
- by a State actor or by any other person acting with the complicity, tolerance or consent of the State,
- with the purpose of instilling in a person a justified fear of becoming the victim of an extra-judicial or arbitrary execution.

### IHRL

UDHR: Art.3

ICCPR: Art.6, Art.4

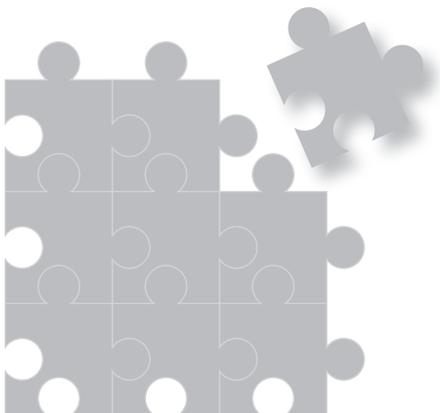
HRC: General Comment No. 29

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### 2007 Constitution of Thailand

Art.32(1): A person shall enjoy right and liberty in life and person.

Art.32(4): any action affecting right and liberty in life and person of individual shall not be taken except by virtue of the law



## 6. Freedom from torture and cruel, inhuman, degrading treatment or punishment.

No person can be subjected to torture or to cruel, inhuman, degrading treatment or punishment. This is an absolute right from which no derogations are possible even in times of public emergency that threatens the life of the nation.

Torture refers to any act by which:

- severe pain or suffering,
- whether physical or mental,
- is intentionally inflicted on a person,
- by or at the instigation of or with the consent or acquiescence of a public official or other persons acting in official capacity,
- for such purposes as:
  - obtaining from that person or a third person information or a confession, or
  - punishing that person for an act s/he or a third party has committed or is suspected of having committed, or
  - intimidating or coercing that person or a third person, or
  - for any reason based on discrimination of any kind.

Cruel, inhuman, degrading treatment or punishment (ill treatment) refers to:

- any act which may be physical or verbal or neglect of treatment, and is:
- intentionally inflicted upon a person,
- by or with consent or acquiescence of State authorities.

Ill-treatment encompasses those cases in which the degree of pain or suffering is less severe than in cases of torture. Forms of ill treatment need not be inflicted for a specific purpose.

States have the obligation to take measures to provide protection against such violations. Such measures include<sup>2</sup> :

- Recognizing torture and cruel, inhuman degrading treatment or punishment as an offence under criminal law and specifying the penalties that are applicable to such acts.
- Recognizing the right to lodge complaints against torture and ill treatment under the national laws. Such complaints must be investigated promptly and impartially by competent authorities.
- Ensuring that, unless a complaint of torture or ill treatment is manifestly ill founded, the public officials involved are suspended from their duties pending the outcome of the investigation and any legal or disciplinary proceedings.
- Ensuring that there are witness protection programs for witnesses to incidents of torture and ill treatment.

In addition to the obligation to punish persons responsible for committing the violation, States are also under an obligation to adopt appropriate measures to guard against such violations and prevent their recurrence. Such measures include:

- Providing appropriate training to enforcement personnel, medical personnel, police officers and other persons involved in the custody or treatment of any individual subject to any form of arrest, detention or imprisonment.
- Reviewing interrogation rules, methods and practices applicable in the State relating to the custody and treatment of persons and amongst other things ensuring that;
  - Incommunicado detention is not allowed.
  - Detainees are held in places that are officially recognized as places of detention.

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<sup>2</sup> Report of Special Rapporteur on Torture, Sir Nigel Rodley, E/CN.4/2003/68

- The names and places of detention as well as the names of persons responsible for detention are kept in registers which are readily available and accessible to those concerned, including friends and relatives.
- The times and places of all interrogations, together with the names of all those present during the interrogation are recorded and made available for purposes of judicial and administrative proceedings.
- Detainees have prompt and regular access to doctors and lawyers.
- During detention, accused persons are segregated from convicted persons so as to respect the right of the accused persons to be presumed innocent until proven guilty.
- Ensuring that the national laws prohibit use of statements or confessions obtained through torture and ill treatment in judicial proceedings.

Persons under administrative detention should be entitled to the same degree of protection as persons under criminal detention. Administrative detention refers to detention by the Executive for reasons unrelated to criminal activities, such as detention for educational supervision, reasons of mental health, vagrancy, drug addiction, for the purposes of deportation and extradition and in order to protect public security.

In cases where torture and ill treatment is inflicted by private persons or entities, States have to exercise due diligence to prevent, punish, investigate or redress the harm caused by such torture and ill treatment.

The State also has an obligation not to extradite, deport, expel or otherwise remove a person from its territory, when there are substantial grounds for believing that the person may be tortured in the country where he/she is removed to or in the country in which he/she is subsequently to be removed.

### **IHRL**

UDHR: Art.5

ICCPR: Art.7, Art.4 and Art. 10

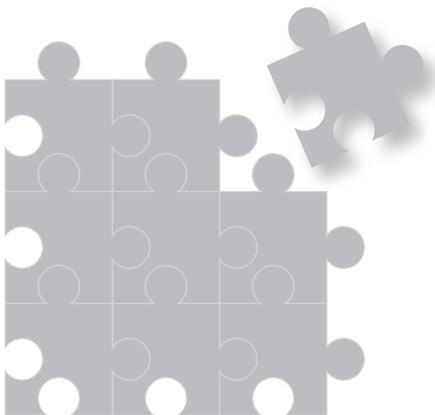
HRC: General Comment No. 20, 21 and 29

See also: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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### **2007 Constitution of Thailand**

Art.32(2): Prohibition of torture, brutal act or punishment by cruel or inhuman means. Punishments under judgments of Courts or by virtue of law shall not be considered punishment by cruel or inhuman means.



## 7. Freedom from physical assault

Every person has the right to liberty and security of person. No one should be subjected to physical assault.

Physical assault refers to;

- any act of violence,
- by or with the consent of State authorities,
- against a defenseless person,
- with the objective of instilling a sense of fear in the victim.
- Such victim is not under detention and/ or control of State authorities.
- The act does not have the intent and the seriousness that characterizes torture or cruel, inhuman and degrading treatment or punishment.

### **IHRL**

UDHR: Art.3

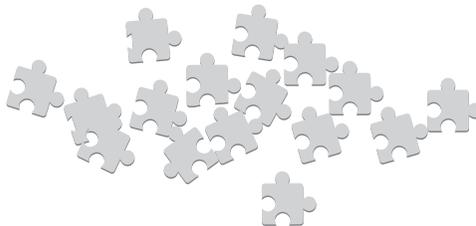
ICCPR: Art.9(1)

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### **2007 Constitution of Thailand**

Art.32(1): A person shall enjoy right and liberty in life and person.

Art.32(4): any action affecting right and liberty in life and person of individual shall not be taken except by virtue of the law



## 8. Excessive use of force

Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or are not able to achieve the intended result. Excessive use of force refers to those cases when:

- force is used without a legitimate objective or
- the amount of force used is not proportional to the seriousness of the offence.

### **IHRL**

UDHR: Art.3

ICCPR: Art.6(1), Art.9, Art.4

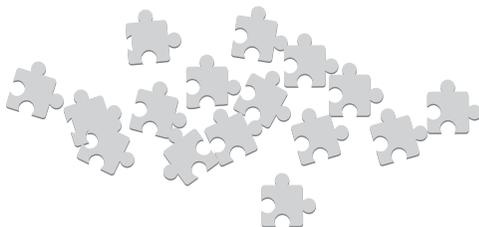
HRC: General Comment No. 29

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### **2007 Constitution of Thailand**

Art.29: No restriction shall be imposed on rights and liberties except by virtue of law. Such restrictions can be imposed only to the extent of necessity and should not affect the essential substances of the rights and liberties.

Art.32: Protection of rights and liberties in life and persons of individuals



## 9. Violence against women

Violence against women refers to:

- any act of gender-based violence that,
- is committed in private or public life, and
- results in or is likely to result in,
- physical, sexual or psychological harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty.

Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.

States have obligations to take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act. Such obligations include:

- Identifying the nature and extent of attitudes, customs and practices that perpetuate violence against women and taking effective measures to overcome such attitudes and practices.
- Taking effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence including violence and abuse in the family, sexual assault and sexual harassment in the workplace.
- Taking protective measures such as putting in place refuges, counseling, and rehabilitation and support services for women who are victims of violence or who are at risk of violence.

**IHRL**

General Recommendation No. 19 issued by Committee on Elimination of Discrimination Against Women

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**2007 Constitution of Thailand**

Art.30: All persons are equal before law and enjoy equal protection under law. Men and women enjoy equal rights. Unjust discrimination based on ground of sex shall not be permitted.



## 10. Freedom from arbitrary detention

Every person has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.

Arbitrary detention refers to an act of detention that is not based on national laws and/or is unpredictable or unreasonable. Specifically it refers to:

- any act,
- by which a public official or any other person acting in an official capacity or with official instigation, consent or acquiescence,
- deprives a person of his/her liberty by confining him/her in a prison or in any other detention facility, and
  - the grounds for detention are not lawful, reasonable or necessary in the circumstances of the case, and/or
  - the procedure for arrest and detention as established by law are not followed.

Detention refers to all deprivations of liberty, whether in criminal cases or in other cases, such as, for educational purpose, reasons of mental health, vagrancy, drug addiction, for the purposes of deportation and extradition, etc.

Every person who is arrested has the right to be informed, at the time of arrest, the reasons for the arrest in a language which he or she understands and in sufficient detail.

Every person who is arrested or detained on criminal charges has the right to be promptly presented before a judicial officer so that the detention is brought under judicial control.

A person arrested and detained under criminal charges is entitled to a trial within reasonable time or to be released pending trial. The right to be released pending trial is subject to certain considerations such as; the risk of absconding by the accused person, suspected involvement of the accused person in serious offences, risk of repetition of the offence by the accused person, risk to public order and the risk of the accused person putting pressure on witnesses and colluding with the co-accused.

Everyone deprived of his or her liberty has the right to challenge the lawfulness of his or her arrest or detention before a court so that court may decide without delay/speedily on the lawfulness of the detention and order the person's release if such detention is not lawful.

The State also has to ensure that laws providing for preventive detention because of reasons of public security must have safeguards against arbitrary detention, such as:

- The detention must be based on grounds and procedures established by national law.
- Information of reasons for detention must be provided.
- There must be judicial control over the detention.
- Compensation in case of breach of rights must be available.

### **IHRL**

UDHR: Art.3, Art.9

ICCPR: Art.9

HRC: General Comment No. 8

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### **2007 Constitution of Thailand**

Art.32: Protection of rights and liberties in life and persons of individuals

Art.39(1): Protection from ex-post facto laws

## 11. Freedom from enforced or involuntary disappearance

Every person has the right to life, liberty and security of person. Unacknowledged detentions or involuntary and forced disappearances constitute violations of these rights.

Enforced or Involuntary Disappearance refers to an act whereby the victim is effectively placed outside the protection of law. It refers to cases whereby a person is:

- deprived of liberty by acts such as arrest, detention or abduction against his/her will,
- by agents of State or groups of persons acting on behalf of or with support, direct or indirect consent or acquiescence of State authorities, and
- the State authorities refuse to disclose the fate or whereabouts of the person concerned or acknowledge the deprivation of his/her liberty.

The State should take effective legislative, administrative, judicial or other measures to prevent and provide protection against unacknowledged or involuntary and forced disappearances. Such measures can include:

- Taking legislative measures to ensure that acts of enforced disappearances are recognized as offences under the criminal law.
- Ensuring that every person deprived of liberty is held in an officially recognized place of detention and in conformity with the national law.
- Ensuring that deprivation of liberty is subject to judicial control.

- Ensuring that accurate information on the detention of persons and their place or places of detention including transfers is promptly made available to family members, legal representatives or any other person having a legitimate interest in the information.
- Ensuring that an official up-to-date register of the detained persons is maintained in every place of detention and the information is made available to all persons having a legitimate interest in the information and for purposes of judicial or administrative proceedings.
- Ensuring that all persons deprived of liberty are released in a manner permitting reliable verification that they have actually been released.
- Ensuring that an individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to a competent authority which shall examine the allegation promptly and impartially and where necessary undertake thorough investigation.
- Taking appropriate steps to ensure that complainant, witness, relatives of disappeared person and their defence counsel are protected from ill treatment, intimidation or sanction as a result of the search for information concerning a person deprived of liberty.

The State also has an obligation not to extradite, deport, expel or otherwise remove a person from its territory, when there are substantial grounds for believing that the person may be disappeared in the country where he/she is removed to or in the country in which he/she is subsequently to be removed.

In cases where enforced or involuntary disappearances are caused by private persons or entities, States have to exercise due diligence to prevent, punish, investigate or redress the harm caused by such ill-treatment.

### **IHRL**

UDHR: Art.3, Art.9

ICCPR: Art.6, Art.9

See also: International Convention for the Protection of All Persons from Enforced Disappearances.

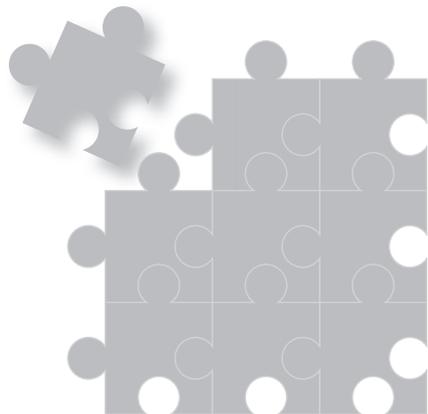
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### **2007 Constitution of Thailand**

Art.32(1): A person shall enjoy right and liberty in life and person.

Art.32(3): Arrest and detention of person shall be made only by order or warrant issued by the Courts or on basis of grounds as provided by law.

Art.32(4): any action affecting right and liberty in life and person of individual shall not be taken except by virtue of the law



## 12. Right to freedom of opinion and expression

Everyone has the right to hold opinion without interference.

Everyone has the right to freely express one's opinion and to seek, receive and impart information and ideas of all kinds, through any media and language of one's choice. A violation occurs, when restrictions are placed on the freedom to express one's opinion and such restrictions:

- are not prescribed by national law, and
- cannot be justified as necessary to protect:
  - the rights and reputation of others, or
  - the interests of national security, public order, public health or morals.

Freedoms of opinion and expression are closely related. Freedom of expression provides the vehicle for the exchange and development of opinions. These freedoms also form a basis for the full enjoyment of a wide range of other human rights. For instance, freedom of expression is integral to the enjoyment of the rights to freedom of assembly and association, and the right to participate in public affairs.

No restriction can be imposed on the right to hold opinions. All forms of opinion are protected, including opinions of a political, scientific, historic, moral or religious nature. The harassment, intimidation or stigmatization of a person, including arrest, detention, trial or imprisonment for reasons of the opinions he/she may hold, constitutes a violation of the right.

The right to freedom of expression includes the expression and receipt of communications of every form of idea and opinion. It includes political discourse, commentary on public affairs, canvassing, discussion of human rights, journalism, cultural and

artistic expression, teaching, and religious discourse. It also includes commercial advertising.

The right to freedom of speech and expression also implies that all forms and means for dissemination of ideas should be protected. Such forms include spoken, written and sign language and such non-verbal expression as images and objects of art. Means of expression include books, newspapers, pamphlets, posters, banners, dress, internet and legal submissions.

State is under an obligation to:

- Respect freedoms of opinion and expression. This obligation is binding upon all branches of the State.
- Protect persons from acts by private persons or entities that would impair the enjoyment of the freedoms of opinion and expression.
- Take appropriate measures to ensure that the rights are protected under the national laws.
- Ensure that restrictions imposed on the exercise of freedom of expression do not jeopardise the right itself. The restrictions imposed must be 'necessary' for achieving a purpose which is legitimate. The restrictions should also conform to the principle of proportionality:
  - The restriction must have a rational connection to the objective it seeks to achieve. It means that the restrictions must not be arbitrary in nature, unfair or based on irrational considerations.
  - The restriction should impair 'as little as possible' the freedom or right. This implies that the restriction should not be overbroad or vague. The question for consideration is – are there alternative modes that can achieve the objective but which infringe the right to lesser extent?

→ There must be proportionality between the effect of the restriction and the objective it seeks to achieve.

The right to freedom of opinion and expression also embraces a right to access information held by public bodies. States parties should also enact the necessary procedures, whereby one may gain access to information, such as a legislation on right to information.

States can enact laws to prohibit propaganda of war. It can also enact laws to prohibit advocacy of national, racial, religious hatred that can set off discrimination, hostility or violence.

#### **IHRL**

UDHR: Art.19

ICCPR: Art.19, Art.20

HRC: General Comment No. 34

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#### **2007 Constitution of Thailand**

Art.36: a person shall enjoy liberty of communication by lawful means.

Art.45: a person shall enjoy liberty to express opinion, make speech, write, print, publicize and make expression by other means.

Art.46: Media shall enjoy the liberties to present news and express their opinions.

Restrictions can be imposed on the liberties by virtue of law in the interest of the security of the State, maintaining public order or good morals.

### 13. Right to freedom of assembly

Every person has the right to peaceful assembly. Assembly can be held in closed rooms, outdoors and public or private property. Assemblies can be mobile or stationary.

A violation occurs when people are restricted from assembling peacefully, and such restrictions are

- not prescribed by national law and
- cannot be justified as necessary in a democratic society to protect:
  - the rights and freedoms of others, or
  - the interests of national security, public safety, public order and public health or morals.

#### IHRL

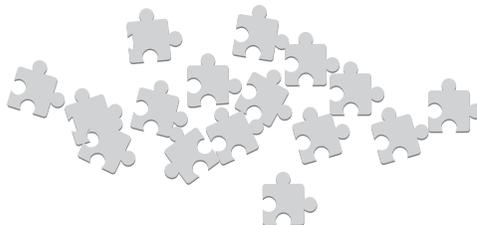
UDHR: Art.20

ICCPR: Art.21

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#### 2007 Constitution of Thailand

Art.63: a person shall enjoy liberty to assemble peacefully and without arms. Restrictions can be imposed on this freedom by virtue of law in interest of securing public convenience in the use of public places, for maintenance of public order when country is in state of war, or when a state of emergency or martial law is declared.



## 14. Right to freedom of association

Everyone has the right to freedom of association with others including the right to form and join trade unions.

A violation occurs when restrictions are placed on the exercise of this right, and such restrictions are

- not prescribed by national law, and
- cannot be justified as necessary in a democratic society to protect:
  - the rights and freedoms of others, or
  - the interests of national security, public safety, public order, and public health or morals.

### IHRL

UDHR: Art.20

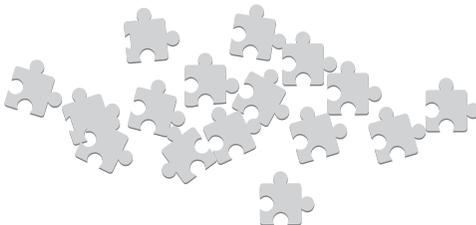
ICCPR: Art.22

ICESCR: Art.8

### 2007 Constitution of Thailand

Art.64: A person shall enjoy freedom of association. Restrictions can be imposed on the freedom by virtue of law in interests of public, maintain public order or good morals or preventing economic monopoly.

Art.65: A person shall enjoy liberty to form political party. The organization, management and regulations of a political party shall be consistent with the fundamental principles of the democratic regime of government with King as head of the State.



## 15. Right to freedom of thought, conscience and religion

Everyone has the right to freedom of thought, conscience and religion. This includes the freedom to adopt a religion or belief of his/her choice, including the decision not to practice any religion.

Everyone has the right to practice his/her religion or belief in worship, observance, practice and teachings. A violation occurs when restrictions are placed on this right, and such restrictions are

- not prescribed by national law, and
- cannot be justified as necessary to protect:
  - public safety, order, health or morals, or
  - fundamental rights and freedoms of others.

The freedom to practice religion or belief by worship, observance and teaching encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of rituals and objects, the display of symbols, and the observance of holidays and days of rest. The observance and practice of religion or belief may include not only ceremonial acts but also customs such as the observance of dietary regulations, the wearing of distinctive clothing or head-coverings, and the use of a particular language customarily spoken by a group. In addition, the practice and teaching of religion or belief includes acts by religious groups which are integral to the conduct of their basic affairs, such as the freedom to choose their religious leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications.

However the freedom to practice religion or belief should not amount to propaganda for war or advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. States parties are under the obligation to enact laws to prohibit such acts.

Restrictions can be placed on the freedom to practice religion or belief for the purpose of protecting public morals. The concept of morals is derived from many social, philosophical and religious traditions. Consequently, limitations for the purpose of protecting morals must be based on principles that are not derived exclusively from a single tradition.

The fact that a religion is recognized as a State religion or that its followers comprise the majority of the population, should not result in any impairment of the enjoyment of any of the other human rights nor in any discrimination against followers of other religions or non-believers.

### **IHRL**

UDHR: Art.18

ICCPR: Art.18, Art.4

HRC: General Comment No. 22 and 29

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### **2007 Constitution of Thailand**

Art.37: All persons shall enjoy liberty to profess, observe and practice any religion, belief, faith or forms of worship.

Restrictions can be imposed on the exercise of this freedom by virtue of law if it is contrary to civic duties, public order and good morals or if it violates the rights of others.

## 16. Right to freedom of movement

All persons living lawfully within the territory of a State have the freedom to move from one place to another and to establish themselves in a place of their choice.

All persons have the right to leave any country including their own.

A violation occurs when restrictions are imposed on a person's freedom to move and such restriction is:

- not prescribed by national law, and
- cannot be justified as necessary to protect:
  - national security, public order, public health, morals or
  - rights and freedoms of others and
- are not consistent with other human rights.

This right also implies that no person can be arbitrarily deprived of the right to enter his/her own country.

The State should not only refrain from interfering with the right to freedom of movement but also ensure that it is not unduly restricted by other persons.

### IHRL

UDHR: Art.13

ICCPR: Art.12, Art.13

HRC: General Comment No. 27

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### 2007 Constitution of Thailand

Art.34: A person has the freedom of movement. Restrictions can be imposed by virtue of law in the interests of security of State, public order, public welfare, town and country planning or welfare of youth. No person of Thai nationality shall be deported or prohibited from entering the Kingdom.

## 17. Freedom from forced displacement of the population

A violation occurs when a person or group of persons is:

- ordered, expelled or forced,
- to move from the area in which they are lawfully present,
- with no legal basis and/or
- when there is no imperative military or security reasons that demand such removal.

### **IHRL**

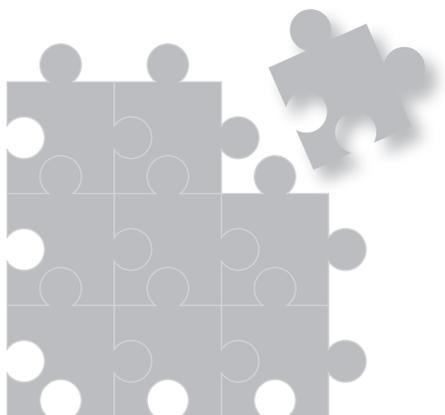
UDHR: Art.13

ICCPR: Art.12

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### **2007 Constitution of Thailand**

Art.33: A person shall enjoy the liberty of dwelling. A person shall be protected for peaceful habitation in and for possession of his/her dwelling.



## 18. Right to seek and enjoy asylum

Everyone has the right to seek and enjoy in another country asylum from persecution.

Asylum is the right of the last resort for people who cannot count on their own States to protect them and are forced to flee their homelands and seek the protection of other States.

However this right cannot be invoked in case of prosecutions genuinely arising from non-political crimes or if there are serious reasons for considering that the person seeking asylum has committed a crime against peace, a war crime or crimes against humanity.

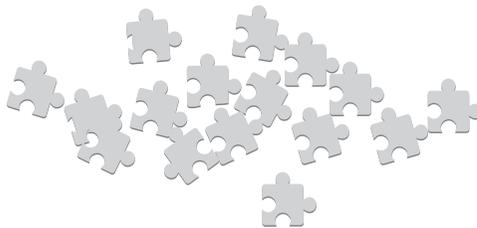
### IHRL

UDHR: Art.14

See also: The Geneva Convention Relating to the Status of Refugees, 1951

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***Till date Thailand has not ratified the Geneva Convention Relating to the Status of Refugees, 1951.***



## **19. Right to nationality**

Everyone has the right to a nationality. Nationality is the legal bond between a person and the State and encompasses political, economic, social rights as well as responsibilities of both the State and the individual.

Nationality is principally granted by States through birth on a State's territory or through descent if the child acquires the nationality of the parent(s) and in some cases through both birth and descent.

In many States, persons who have been resident in the State for some length of time, or who have established some other link with the State, such as marriage to a national, may be able to acquire nationality of the State.

No person can be arbitrarily:

- deprived of his/her nationality, or
- denied the right to change his/her nationality.

No sex-based discrimination should occur in respect of the acquisition or loss of nationality by reason of marriage.

### **IHRL**

UDHR: Art.15

See also: 1954 Convention relating to Status of Stateless persons and 1961 Convention on the Reduction of Statelessness

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### **Thailand**

See the Nationality Act, 2008 and the Civil Registration Act, 2008

## 20. Right to marry and found a family

Every man and woman of marriageable age has the right to marry and found a family. No person should be forced or coerced into entering a marriage. Parties to a marriage are entitled to equal rights as to marriage, during marriage and at its dissolution.

The obligations of States include:

- Setting up a 'marriageable age' that ensures the capacity to make informed and un-coerced decisions.
- Abolishing laws or practices which allow the rapist to have his criminal responsibility extinguished or mitigated if he marries the victim.
- Taking appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. Such steps include:
  - Ensuring that there is no sex-based discrimination in the acquisition or loss of nationality by reason of marriage or in transmitting to children the parent's nationality.
  - Safeguarding the right of each spouse to retain the use of his or her original family name.
  - Ensuring that there is no discriminatory treatment with regard to grounds and procedures for separation or divorce, child custody and provision of maintenance or alimony.
  - Ensuring that married women have equal rights with regard to ownership and administration of property. Women should also have equal inheritance rights to those of men when the dissolution of marriage is caused by death of one of the spouses.

The family is the natural and fundamental group unit of society and is entitled to protection by society and the State. However States can take measures to address issues such as domestic violence and neglect and abuse of children. There is no standard definition of family under international law. The concept and scope of family is understood according to the law and practice of a State.

**IHRL**

UDHR: Art.16

ICCPR: Art.23

CEDAW: Art.16

HRC: General Comment No. 19

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Thailand has made a reservation to CEDAW, stating that it does not consider as binding upon itself the provisions of Art.16 which provides for eliminating discrimination against women in all matters relating to marriage and family relations.

See: personal law and the different statutes relating to marriage, dissolution of marriage, guardianship, etc.



## 21. Right to equality before the courts and tribunals and right to fair trial

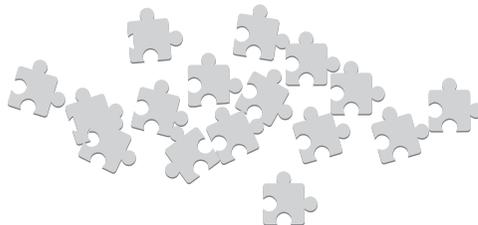
Equality before the courts and the right to fair trial are regarded as fundamental principles of law and a key element of human rights protection.

These principles apply not only to procedures for the determination of criminal charges against individuals but also to procedures to determine the rights and obligations of individuals in a suit of law.

These rights are not limited to citizens but should also be available to all individuals, regardless of their nationality or statelessness, who may find themselves in the territory or subject to the jurisdiction of the State.

A violation occurs when:

- A person appearing before the court is discriminated against either,
  - in the way the investigation or trial was conducted
  - or
  - in the way the law was applied to the person concerned.
- A person is denied equal access to the court and prevented from claiming his/her rights.



Fundamental requirements of a fair trial must be respected even during a state of emergency. These are:

- Only a court of law may try and convict a person for a criminal offence.
- The presumption of innocence must be protected.
- The right to take proceedings before a court in order to protect non-derogable rights (such as right to life, prohibition of torture or ill treatment, freedom of thought, conscience, religion, etc.) must be respected.

### **IHRL**

UDHR: Art.6, Art.7

ICCPR: Art.14, Art.16

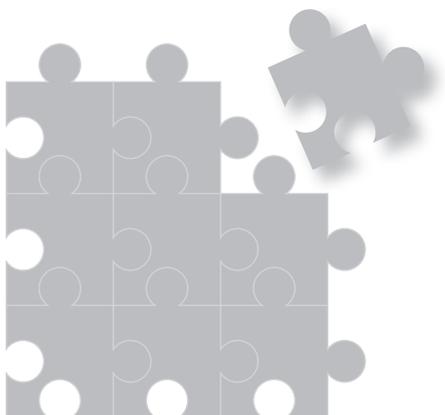
HRC: General Comment No. 32

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### **2007 Constitution of Thailand**

Art.30: All persons are equal before the law and shall enjoy equal protection of the law.

Art.40: Rights in the judicial process



## **The different rights that are part of the right to equality before courts and tribunal and the right to fair trial are:**

### **21.1 Right to be presumed innocent**

The presumption of innocence is fundamental to the protection of human rights. It imposes on the prosecution the burden of proving a charge. It guarantees that no guilt can be presumed until the charge is proved beyond reasonable doubt.

Public authorities have a duty to refrain from pre-judging the outcome of a trial. Presumption of innocence also implies that the accused or defendants should normally not be shackled or kept in cages during trials or otherwise presented to the Court in a manner indicating that they may be dangerous criminals.

A violation occurs by an act or a decision of a public authority, that presumes or treats an accused person as guilty, such as when

- the burden of proof does not lie with the prosecution and is shifted to the accused, or
- the accused is not given the benefit of the doubt.

#### **IHRL**

UDHR: Art.11

ICCPR: Art.14(2)

HRC: General Comment No. 32

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#### **2007 Constitution of Thailand**

Art.39(2): The suspect or accused in a criminal case shall be presumed innocent.

Art.39(3): a person shall not be treated as a convict before a final judgment is passed convicting such person of having committed an offence.

## **21.2 Right to be notified of the charges in a language one understands**

A violation of this right occurs when the accused is:

- not promptly informed,
- about the details of the charges against her/him,
- in a language that s/he understands.

### **IHRL**

UDHR: Art.8, Art.10, Art.11

ICCPR: Art.14(3a)

HRC: General Comment No. 32

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### **2007 Constitution of Thailand**

Art.40(2): rights in the judicial process

Also see: Section 7(1) and Section 8 of the Criminal Procedure Code

## **21.3 Right to adequate time and facilities to prepare one's defense**

A violation occurs when the accused and/or defense counsel are:

- not given adequate time and facilities,
- to prepare their defense,
- in all stages of the proceedings.

### **IHRL**

UDHR: Art.8, Art.10, Art.11

ICCPR: Art.14(3b)

HRC: General Comment No. 32

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### **2007 Constitution of Thailand**

Art.40(7): Rights in judicial process

## 21.4 Right to be tried within a reasonable time

A violation occurs when:

- trial proceedings go beyond the time limits predicted by law, or
- after a reasonable amount of time has passed, the competent officials are unable to justify the delay or inaction with respect to the process.

### IHRL

UDHR: Art.8, Art.10, Art.11

ICCPR: Art.14(3c)

HRC: General Comment No. 32

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### 2007 Constitution of Thailand

Art.40(3), Art.40(4), Art.40(7): Rights in judicial process

## 21.5 Right to legal assistance

A violation occurs by any act of commission or omission which:

- impedes a person from having access to legal assistance, or
- limits the exercise of legal representation by the defense counsel.

### IHRL

UDHR: Art.8, Art.10, Art.11

ICCPR: Art.14(3d)

HRC: General Comment No. 32

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### 2007 Constitution of Thailand

Art.40(5), Art.40(7), Art.40(8): Rights in judicial process

## 21.6 Right to be present at one's trial

A violation occurs when judicial authorities:

- fail to notify the accused,
- of the date and location of the hearing,
- in due time.

### **IHRL**

UDHR: Art.8, Art.10, Art.11

ICCPR: Art.14(3d)

HRC: General Comment No. 32

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### **2007 Constitution of Thailand**

Art.39: Right to be presumed innocent

Art.40: Rights in judicial process

## 21.7 Right to call, examine or cross-examine witnesses

A violation occurs whenever the accused is denied the opportunity;

- to call his/her own witnesses; and/or
- to challenge the witnesses presented by the prosecution

### **IHRL**

UDHR: Art.8, Art.10, Art.11

ICCPR: Art.14(3e)

HRC: General Comment No. 32

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### **2007 Constitution of Thailand**

Art.40(2), Art.40(7): Rights in judicial process

## 21.8 Right to free assistance of an interpreter

This right applies to nationals, aliens, and persons with hearing or speaking disabilities. A violation occurs whenever the accused person who does not speak or understand the language used by the court is denied the assistance of a translator or an interpreter. Such assistance should be:

- free of charge, and
- include the translation or interpretation of all statements or documents that are part of proceedings instituted against the accused and which are deemed necessary for that person to understand.

### IHRL

UDHR: Art.8, Art.10, Art.11

ICCPR: Art.14(3f)

HRC: General Comment No. 32

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### 2007 Constitution of Thailand

Art.40(5), Art.40(7): Rights in judicial process

## 21.9 Right not to be compelled to testify against oneself or to make confession of guilt

A violation occurs whenever an accused person:

- under physical or psychological pressure (direct or indirect),
- from investigating authorities or any other person acting in official capacity,
- incriminates himself/herself or confesses to be guilty.
- It also constitutes a violation if evidence obtained under torture is invoked or accepted in any judicial proceeding.

**IHRL**

UDHR: Art.8, Art.10, Art.11

ICCPR: Art.14(3g)

HRC: General Comment No. 32

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**2007 Constitution of Thailand**

Art.40(4): Rights in judicial process

## 21.10 Right to appeal

A violation occurs whenever:

- a person condemned by a judicial sentence is prevented from presenting an appeal as provided under law before a judge or superior, impartial and independent tribunal, or
- the judge or court does not admit such appeal for unlawful reasons.

**IHRL**

UDHR: Art.8

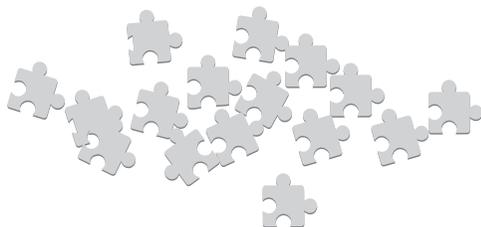
ICCPR: Art.14(5)

HRC: General Comment No. 32

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**2007 Constitution of Thailand**

Art.39, Art.40: Rights in judicial process



## 22. Prohibition of double jeopardy

A violation occurs whenever a person:

- acquitted by a final decision is,
- tried or punished again,
- for the same criminal offence of which the person had been acquitted in accordance with law.

### **IHRL**

UDHR: Art.8

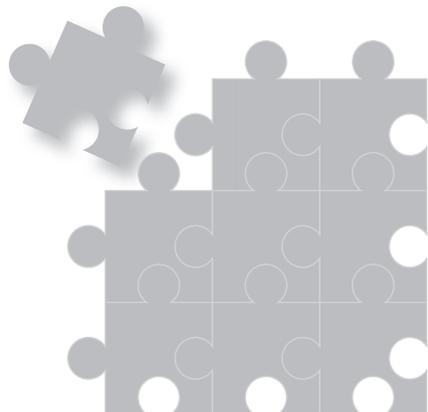
ICCPR: Art.14(7)

HRC: General Comment No. 32

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### **Thailand**

Section 10 and 11 of Penal Code



## 23. Freedom from ex-post facto laws

A violation occurs whenever:

- a new law is applied retroactively and
- a person is
  - held accountable for a criminal offence,
  - resulting from an act which,
  - at the time of execution was not considered an offence.

### IHRL

UDHR: Art.11

ICCPR: Art.15

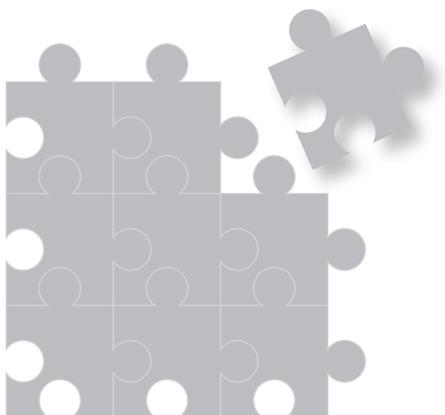
ICCPR: Art.4

HRC: General Comment No. 29

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### 2007 Constitution of Thailand

Art.39: Freedom from ex-post facto laws



## 24. Right to compensation in the event of a miscarriage of justice

A violation occurs whenever a person is prevented from demanding and/or receiving compensation after his/her conviction is revoked following the presentation of conclusive evidence indicating that there was a miscarriage of justice.

### **IHRL**

UDHR: Art.8

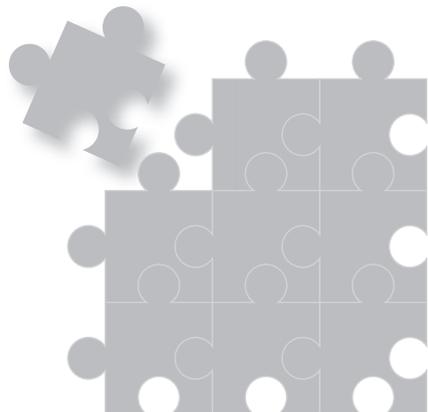
ICCPR: Art.14(6)

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### **2007 Constitution of Thailand**

Art.32(5): A person whose rights and liberties in life and person are violated can file a lawsuit before the Courts and seek appropriate remedies.

Art.40(5): A person whose rights are violated shall have the right to necessary and appropriate protection and assistance from the State.



## 25. Right to an effective remedy

A violation of right to an effective remedy occurs whenever States fail in their obligations with respect to international human rights law and international humanitarian law, including in their duty to:

- take appropriate legislative, administrative and other measures to prevent violations;
- investigate violations effectively, promptly, thoroughly and impartially and where appropriate take action against those allegedly responsible in accordance with domestic and international law,
- provide equal and effective access to justice to those who claim to be victims of human rights and humanitarian law violations.
- provide effective remedies to victims, including reparations.

### IHRL

UDHR: Art.8

ICCPR: Art.2(3)

HRC: General Comment No. 29

### 2007 Constitution of Thailand

Art.6: Laws, rules and regulations inconsistent with Constitution shall be unenforceable.

Art.26: State while exercising its powers should consider human dignity, rights and liberties as guaranteed in Constitution.

Art.27: All State organs are bound by rights and liberties guaranteed in Constitution while enacting, applying and interpreting laws.

Art.28: A person whose rights and liberties are violated can file a lawsuit against the State.

Art.32(5): A person whose rights and liberties in life and person are violated can file a lawsuit before the Courts and seek appropriate remedies.

Art.40(5): A person whose rights are violated shall have the right to necessary and appropriate protection and assistance from the State.

## 26. Right to work

The right to work is an individual right as well as a collective right. It includes the right of every human being to decide freely to accept or choose work, to access a system of protection which guarantees each worker access to employment and not to be unfairly deprived of employment. Further it includes the following interdependent and essential elements:

- **Availability:** State parties must have specialized services to assist and support individuals in order to enable them to identify and find available employment.
- **Accessibility:** the labour market must be open to everyone under the jurisdiction of the State. Accessibility consists of three dimensions:
  - There should be equality of opportunity and non-discrimination in access to and maintenance of employment.
  - There should be physical accessibility as with respect to persons with disabilities.
  - There should be information accessibility and everyone should have the right to seek, obtain and impart information on the means of getting access to employment through the establishment of data networks on the employment market at the local, regional, national and international levels.
- **Acceptability and Quality:** such as the right of the worker to just and favorable conditions of work, in particular, to safe working conditions, to form trade unions and the right of the worker to freely choose and accept work.

### *Obligations*

The principal obligations are to ensure the progressive realization of the enjoyment of the right to work by taking deliberate, concrete and targeted steps. The State also has to ensure that right to work can be exercised without discrimination of any kind. Obligation of a State party can also be classified as:

Obligation to respect includes the obligation of States to:

- prohibit forced labor or compulsory labor and
- refrain from denying or limiting equal access for all persons to decent work.

Obligation to protect includes the obligation of States to:

- adopt legislation or to take other measures ensuring equal access to work and training,
- ensure that privatization measures do not undermine worker's rights,
- ensure that social protection of the workers are not reduced by measures taken to increase flexibility of the labor market,
- prohibit forced or compulsory labor by non-state actors.

Obligation to fulfill includes the obligation of States to:

- recognize the right to work in the national legal system,
- adopt a national policy on the right to work as well as a detailed plan for its realization,
- take effective measures to reduce unemployment rate, in particular, among women and the disadvantaged and marginalized groups,
- establish a compensation mechanism in the event of loss of employment,

- take appropriate measures for establishing of employment services (public or private) at national or local level,
- Implement technical and vocational education plans to facilitate access to employment.

### **IHRL**

UDHR: Art.23

ICESCR: Art.6

CESCR: General Comment No.18

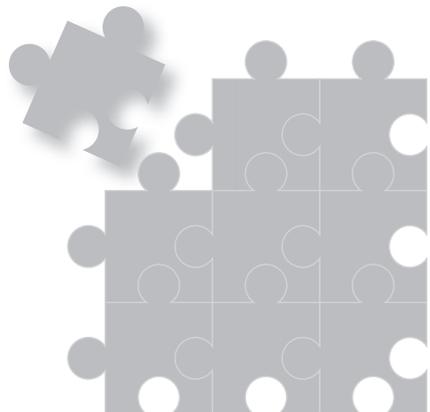
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### **2007 Constitution of Thailand**

Art.43: A person shall enjoy liberties to engage in an enterprise or an occupation and to undertake a fair and free competition.

DPFSP

Part 7: Economic Policy



## 27. Right to just and favorable conditions of work

This includes the right to:

- Receive fair wages and equal remuneration for work of equal value without distinction of any kind. The wage should be of such amount which, at a minimum, should be able to provide a decent standard of living to the person and his/her family in accordance with other human rights,
- Safe and healthy working conditions,
- Equal opportunity for everyone to receive promotions in employment,
- Rest, leisure and reasonable limitation of working hours, periodic holidays with pay and remuneration for public holidays.

### **IHRL**

UDHR: Art.23 and Art.24

ICESCR: Art.7

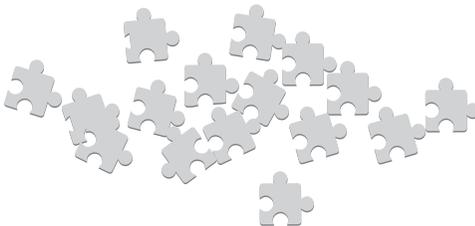
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### **2007 Constitution of Thailand**

Art.44: A person shall enjoy the right to work safely and welfare and to living security in accordance with law.

DPFSP

Part 7: Economic Policy



## 28. Right to form and join trade unions

This includes:

- the right of everyone to form trade unions and join the trade union of his/her choice,
- the right of trade unions to establish national federations or confederations and join international trade union organizations,
- the right of trade unions to function freely,
- the right to strike.

Restrictions can be imposed on these rights. However such restrictions must be:

- prescribed by national law and
- must be necessary in a democratic society to protect the interests of national security, public order, or for protection of rights and freedoms of others.

### **IHRL**

UDHR: Art.23

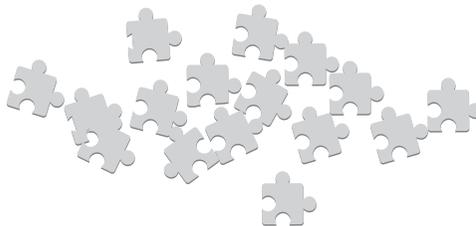
ICESCR: Art.8

ICCPR: Art.22

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### **2007 Constitution of Thailand**

Art.64: A person shall enjoy the liberty of association.



## 29. Right to social security

The right to social security covers the right to access and maintain benefits, in cash or in kind, without discrimination, in order to secure protection from amongst other things:

- lack of work related income, caused by sickness, disability, maternity, employment injury, unemployment, old age or death of a family member,
- unaffordable access to health care,
- insufficient family support, particularly for children and other dependants.

The essential elements of the right to social security are:

- **Availability of social security system:** a social security system should be available under the domestic law to ensure that benefits are provided for the relevant social risks and contingencies. Such social security system should provide for:
  - Health care,
  - Sickness: cash benefits should be provided to those incapable of working due to ill health in order to cover periods of loss of earnings,
  - Old age,
  - Unemployment: benefits should be provided to cover the loss or lack of earnings due to inability to obtain or maintain sustainable employment,
  - Employment injuries,
  - Family and child support,
  - Maternity,
  - Disability: adequate income support should be provided to persons who have permanent disability as well as persons with disability, who because of their disability have temporarily lost employment, or suffered a reduction in income or are denied

employment opportunities. Such support should be provided in a dignified manner and should reflect the social needs for assistance and other expenses associated with disability,

- Survivors and orphans: this includes provision of benefits to survivors and orphans on the death of a breadwinner who was covered by social security or had the rights to pension.
- **Adequacy:** benefits must be adequate in amount and duration, so that everyone can realize their rights to family protection and assistance and an adequate standard of living as recognized in Article 10, 11 and 12 of the ICESCR.
- **Accessibility:** this includes the following elements:
  - Coverage: all persons should be covered by the social security system,
  - Eligibility: qualifying conditions for benefits must be reasonable, proportionate and transparent,
  - Affordability: the direct and indirect costs and charges associated with making contributions must be affordable to all and must not compromise the realization of other economic and social rights,
  - Participation and Information: participants of social security schemes must be able to participate in the administration of the social security system,
  - Physical access: benefits should be provided in a timely manner and beneficiaries should have access to the system in order to access benefits and information, and make contributions where relevant. Particular attention must be paid to persons with disabilities, migrants, persons living in remote or disaster prone areas as well as areas experiencing armed conflict.

### Obligations

- State has to ensure that the right can be exercised without discrimination of any kind.
- State must work towards the progressive realization of enjoyment of the right by taking deliberate, concrete and targeted steps.
- The State should take steps, to the maximum of available resources, to ensure that security systems cover workers inadequately protected by social security such as part time workers, casual workers, the self employed and home workers, as well as those working in the informal economy.

Obligation to respect includes obligation to refrain from engaging in any practice or activity that:

- Denies or limits equal access to social security,
- Arbitrarily or unreasonably interferes with self-help or customary or traditional arrangements of social security,
- Arbitrarily or unreasonably interferes with institutions that have been established by individuals or corporate bodies to provide social security.

Obligation to protect includes obligation to:

- Adopt necessary and effective legislative measures to restrain third parties from denying equal access to social security schemes operated by them,
- Ensure that third parties make the contributions for employees and other beneficiaries into the social security system as required by law.

Obligation to fulfill includes obligation of States to:

- Adopt necessary measures such as legislation, national social security strategy and plan, that ensures a social

security system that is adequate, accessible for everyone and covers social risks and contingencies,

- Ensure that there is appropriate education and public awareness concerning access to social security schemes, particularly in rural and deprived urban areas or amongst linguistic and other minorities.

## **IHRL**

UDHR: Art.22, Art.25

ICESCR: Art. 9

CESCR: General Comment No. 19

Also see

ICESCR: Art.10(2)

CEDAW: Art.11(1e), Art.11(2b), Art.14(2c)

CRC: Art.26, Art.27

ICERD: Art.5(e)(iv)

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## **2007 Constitution of Thailand**

Art.44: A person shall enjoy the right to living security in accordance with law irrespective of whether such person is employed or unemployed.

Art.53: A person who is over sixty years of age and has insufficient income for living shall have the right to welfare, public facilities and appropriate aids from State.

Art.54: The disabled or handicapped and person of unsound mind shall have the right to get appropriate aids from State.

Art.55: A person who is homeless and has insufficient income for living shall have the right to appropriate aids from State.

DPFSP

Art.80: Social Policies

Part7: Economic Policies

### 30. Right to health

The right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water, adequate sanitation and safe and healthy working conditions and a healthy working environment.

The right to health contains freedoms such as the right to control one's health and body including sexual and reproductive freedoms and right to be free from interference such as torture, non-consensual medical treatment and experimentation.

The right to health also contains entitlements such as the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health. This entitlement to 'highest attainable level of health' includes the following elements:

- **Availability:** there should be availability of functioning public health and health care facilities, goods and services. These include safe and potable drinking water, adequate sanitation facilities, hospitals, clinics and other health related buildings, trained medical and professional persons, and essential drugs.
- **Accessibility to health care services:** this element has four overlapping dimensions;
  - Non-Discrimination: health facilities, goods and services have to be accessible to all, especially the most vulnerable and marginalized sections of the population, in law and fact, without discrimination on any of the prohibited grounds.

- Physical Accessibility: health goods and services must be within safe physical reach of all sections of the population, specially vulnerable or marginalized groups such as ethnic minorities, indigenous populations, women, children, older persons, people with disabilities and persons with HIV/AIDs. It also includes adequate access to buildings for persons with disabilities.
  - Economic Accessibility: health facilities, goods and services must be affordable for all. Payment for health care and other related services have to be based on principle of equity, ensuring that the services, whether private or publicly provided, are affordable to all including socially disadvantaged groups. Equity demands that poorer households should not be disproportionately burdened with health expenses as compared to richer households.
  - Information accessibility: includes the right to seek, receive and impart information and ideas about health related issues.
- Acceptability: all health facilities, goods and services must be respectful of the culture of individuals, minorities, peoples and communities, sensitive to gender needs and life cycle requirements. There must also be respect for the confidentiality of the persons concerned.
  - Quality: health facilities, goods and services must be medically appropriate and be of good quality.

### Obligations

- State must work towards the progressive realization of enjoyment of the right by taking deliberate, concrete and targeted steps towards full realization of the right.

Obligation to respect includes the duties of the State to:

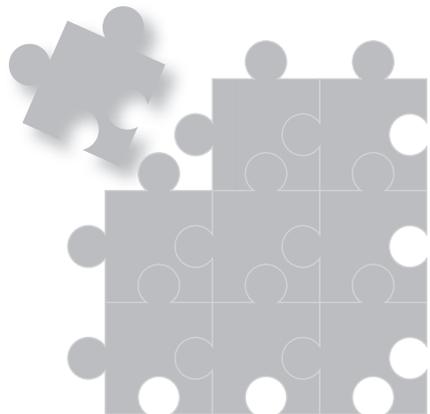
- Refrain from denying or limiting equal access for all persons, including prisoners, detainees, minorities, asylum seekers and illegal immigrants to preventive, curative and palliative health services,
- Abstain from enforcing discriminatory practices as State policy,
- Refrain from prohibiting or impeding traditional preventive care, healing practices and medicines,
- Refrain from marketing unsafe drugs and applying coercive medical treatments, unless on an exceptional basis, such as for treatment of mental illness,
- Refrain from limiting access to contraceptives,
- Refrain from censoring, withholding, or intentionally misrepresenting health related information,
- Refrain from preventing peoples' participation in health related matters,
- Refrain from unlawfully polluting air, water and soil, such as by disposing industrial waste from State owned facilities.

Obligation to protect includes duty of the State to:

- Adopt legislation or to take other measures ensuring equal access to health care and health related services provided by third parties,
- Ensure that privatization of health sector does not constitute threat to the availability, accessibility and quality of health facilities, goods and services.
- Ensure that medical practitioners and other health professionals meet appropriate standards of education, skill and ethical codes of conduct,
- To ensure that third parties do not limit people's access to health related information and service.

Obligation to fulfill includes duties of State parties to:

- Adopt laws and a national health policy with a detailed plan for realizing the right to health,
- Ensure provision for health care including necessary immunization programs,
- Ensure equal access to all underlying determinants of health such as nutritious safe food and potable water, basic sanitation and adequate housing and living conditions,
- Ensure that public health infrastructure provides sexual and reproductive health services including safe motherhood, particularly in rural areas,
- Ensure appropriate training of doctors and other medical personnel,
- Ensure provision of sufficient number of hospitals, clinics and other health related facilities,
- Ensure establishment of institutions providing counseling and mental health services,
- Ensure provision of a health insurance system,
- Ensure that health services are culturally appropriate and health care staffs are trained to recognize and respond to specific needs of vulnerable and marginalized groups.



## IHRL

UDHR: Art.25

ICESCR: Art.12

CESCR: General Comment No. 14

Also see

ICESCR: Art.7(b), Art.11

CEDAW: Art.10(h), Art.11(f), Art.12, Art.14(2)(b), Art.16(e)

CRC: Art.17, Art.23, Art.24, Art.25, Art.27, Art.32(1), Art.39

ICERD: Art.5(e)(iv)

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## 2007 Constitution of Thailand

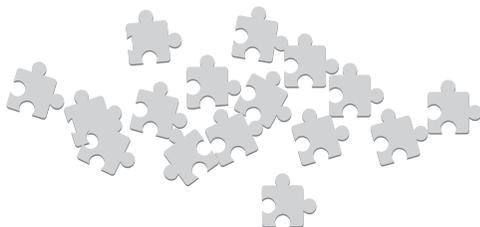
Art.51: A person shall enjoy an equal right to receive standard public health service, and the indigent shall have the right to receive free medical treatment. The public health service by the State shall be provided thoroughly and efficiently. The State shall promptly prevent and eradicate harmful contagious diseases for the public without charge.

Art.52(2): Children, youth, women and family members shall have the right to be protected by State against violence and unfair treatment and shall have the right to medical treatment or rehabilitation upon the occurrence thereof.

DPFSP

Art.80: Public Health Policies

Part7: Economic Policies



### 31. Right to water

The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. The right to water is inextricably linked to the right to highest attainable standard of health and the rights to adequate housing and adequate food.

The right to water contains both freedoms and entitlements. The freedoms include the right to maintain access to existing water supplies equally and without discrimination and the right to be free from interference such as arbitrary disconnections or contamination of water supplies.

The entitlements include the right to a system of water supply and management that provides equality of opportunity for the people to enjoy the right to water. The elements of this include:

- **Availability:** the water supply for each person must be sufficient and continuous for personal and domestic use such as drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene
- **Quality:** the water required for personal and domestic use must be safe, therefore free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person's health.
- **Accessibility:** water and water facilities and services have to be accessible to everyone without discrimination within the jurisdiction of the State party. Accessibility has four overlapping dimensions:
  - Physical accessibility: water and adequate water facilities and services must be within safe physical reach for all. Sufficient, safe and acceptable water must be accessible to each household, educational institution and workplace. All water facilities and services must

be of sufficient quality, culturally appropriate and sensitive to gender, life cycle and privacy requirements. Physical security should not be threatened during access to water facilities and services.

- Economic accessibility: water and water facilities and services must be affordable for all. The direct and indirect costs and charges associated with securing water must be affordable and must not compromise or threaten the enjoyment of other economic, social rights.
- Non-discrimination: water and water facilities and services must be accessible to all, including the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds.

### Obligations

- State must work towards the progressive realization of the exercise of the right by taking deliberate, concrete and targeted steps towards full realization of the right.

### Obligation to respect includes duties of States to:

- Refrain from engaging in any practice or activity that denies or limits equal access to adequate water,
- Refrain from arbitrarily interfering with customary or traditional arrangements for water allocation,
- Refrain from unlawfully diminishing or polluting water.

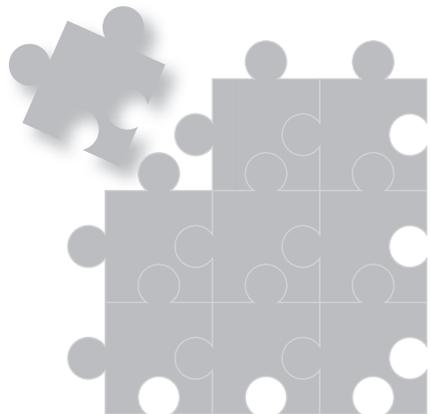
### Obligation to protect includes the duties of States to:

- Adopt necessary and effective legislative and other measures to refrain third parties from:
  - denying access to adequate water and
  - polluting and inequitably extracting water resources.

- Prevent third parties from compromising equal, affordable and physical access to sufficient, safe and acceptable water, when water services are operated and controlled by third parties.

Obligation to fulfill includes the duties of States to:

- Ensure that there is appropriate education concerning the hygienic use of water, protection of water resources and methods to minimize water wastage,
- Ensure recognition of the right to water within the legal system by way of appropriate legislation and its implementation, and adopting a national water strategy and plan of action,
- Adopt necessary measures to ensure that water is affordable such as appropriate pricing policies and income supplements where necessary,
- Adopt comprehensive and integrated strategies and programs to ensure that there is sufficient and safe water for present and future generations.



## IHRL

ICESCR: Art.11, Art.12, Art.1

CESCR: General Comment No. 15

Also see

UDHR: Art.3, Art.22, Art.25

ICCPR: Art.1

CEDAW: Art.14(2)(h)

CRC: Art.24(2)(c), Art.27

ICERD: Art.5(e)

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## 2007 Constitution of Thailand

Art.67: Community rights in preservation and exploitation of natural resources.

Art51: Rights to public health services

DPFSP

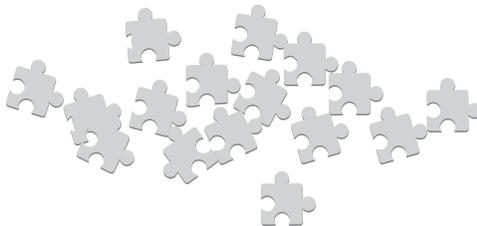
Art.80: Public health policies

Part 7: Economic policies

Part 8: Land use, natural resources and environment policies

Part 9: Science, intellectual properties and energy policies

Part 10: Public participation policy



## 32. Right to education

Education is both a human right in itself and an indispensable means of realizing other human rights. The right to education covers primary education, secondary education, technical and vocational education, higher education and fundamental education. The content of the right includes the following elements:

- **Availability:** functioning educational institutions and programs have to be available in sufficient numbers. Such institutions should have the necessary protection against natural elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials and so on.
- **Accessibility:** this includes the following overlapping dimensions:
  - *Non-discrimination:* education must be accessible to all, in law and fact, without discrimination on any of the prohibited grounds.
  - *Physical accessibility:* education has to be within safe physical reach.
  - *Economic accessibility:* education has to be affordable to all. Primary education shall be available 'free for all'.
- **Acceptability:** the form and substance of education, including curricula and teaching methods have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students.
- **Adaptability:** education has to be flexible so that it can adapt to the needs of societies and respond to the needs of students within their diverse social and cultural settings.

***Right of every child to primary education:*** Primary education should be compulsory and available free for all.

***Right to educational freedom includes two aspects:***

- Parents and guardians have the liberty to ensure the religious and moral education of their children in conformity with their own convictions. States have the obligation to respect such liberty. Public education that includes instruction in a particular religion or belief violates this obligation unless provisions are made for exemptions or alternatives that would accommodate the wishes of parents and guardians.
- Individuals and private entities have the liberty to establish and direct educational institutions, provided the institutions conform to the minimum educational standards laid down by the State. Parents and guardians have the freedom to choose an educational institution other than a public institution for the schooling of their children.

***Right to academic freedom and institutional autonomy:***

academic freedom includes the freedom of the academic community, individually or collectively, to freely pursue, develop and transmit knowledge and ideas through research, teaching, study, discussion, documentation, production, creation or writing - without discrimination or fear of repression by the State or any other actors.

***Discipline:*** the right to education prohibits school disciplinary practices such as corporal punishment and any other form of discipline such as public humiliation which is inconsistent with human dignity.

## Obligations

- State must work towards the progressive realization of the exercise of the right by taking deliberate, concrete and targeted steps towards full realization of the right.

## Obligations to respect include duties of the State to:

- Refrain from taking measures that hinder or prevent the enjoyment of the right to education.
- Refrain from closing private schools.

## Obligation to protect includes duties of the State to:

- Ensure that third parties, including parents and employers do not stop girls from going to schools.

## Obligation to fulfill includes duties of the State to:

- Ensure recognition of the right to education within the legal system by way of appropriate legislation and its implementation, and adopting a national strategy and plan of action on education.
- Develop a system of schools including building classrooms, delivering programs, providing teaching materials, training teachers and paying them domestically competent salaries.
- Provide resources for development of curricula which reflect the contemporary needs of students in the changing world.
- Ensure that education is culturally appropriate so as to enable children to develop their personality and cultural identity and to learn and understand cultural values and practices of the communities to which they belong, as well as those of other communities and societies.

## **IHRL**

UDHR: Art.26

ICESCR: Art .13 and Art.14

CESCR: General Comment No. 11 and 13

See also

ICCPR: Art.18(4)

CEDAW: Art.5(b), Art.10, Art.14(2)(d), Art.16(1)(e)

CRC: Art.17(c), Art.23(3), Art.24(2)(e), Art.28, Art.29

ICERD: Art.5(e)(v) and Art.7

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## **2007 Constitution of Thailand**

Art.49: A person shall enjoy equal rights to receive education for the duration of not less than twelve years which shall be provided by State thoroughly, up to the quality and without charge. The State shall support the indigent, disabled or handicapped or destitute person to enjoy these rights on equal basis with other persons.

The education and training provided by professional or private organization, alternative education of the public, self-directed learning and lifelong learning shall get appropriate protection and promotion from State

Art.50: A person shall enjoy academic freedom. Education and training, learning and teaching, research and disseminating of research according to academic principles shall be protected, provided that it is not contrary to civic duties or good morals.

DPFSP

Art.80: Education policies

### 33. Right to adequate housing

The right to adequate housing is derived from the right to an adequate standard of living. The right applies equally to everyone without discrimination on the basis of any of the prohibited grounds. It implies the right to live somewhere in peace, security and dignity. 'Adequacy' of housing is determined by social, economic, cultural, climatic, ecological and other factors. However there are certain essential components of adequacy, which are:

- **Legal security of tenure:** all persons should possess a degree of security of tenure which guarantees legal protection against forced evictions, harassment and other threats.
- **Availability of services, materials, facilities and infrastructure:** an adequate house must contain facilities essential for health, security, comfort and nutrition such as sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, refuse disposal, site drainage, etc.
- **Affordability:** The amount a person or family pays for their housing must not be so high that it threatens or compromises the attainment and satisfaction of other basic needs.
- **Habitable:** Housing must provide the inhabitants with adequate space and protect them from cold, damp, heat, rain, wind or other threats to health, structural hazards and diseases.
- **Accessibility:** Housing must be accessible to everyone. Disadvantaged groups such as the elderly, the physically and mentally disabled, HIV-positive individuals, victims of natural disasters, children and other groups should receive some degree of priority consideration in housing. Both housing law and policy must ensure that their housing needs are met.

- **Location:** For housing to be adequate it must be situated so as to allow access to employment options, health care services, schools, childcare centres and other social facilities. Housing should neither be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants.
- **Cultural adequacy:** housing should be culturally adequate. This means that housing programs and policies must take fully into account the cultural attributes of housing which allow for the expression of cultural identity and recognize the cultural diversity of the world's population.

### *Rights against forced eviction*

Right to adequate housing includes rights against forced eviction. Forced eviction is defined as: the permanent or temporary removal of individuals, families and communities from their homes or land that they occupy, against their will and without the provision of and access to appropriate forms of legal or other protection. These protections include:

- An opportunity for genuine consultation with those affected,
- Adequate and reasonable notice for all affected persons prior to the scheduled date of eviction,
- Information on the proposed evictions and where applicable, on the alternative purpose for which the land or housing is to be used,
- Government officials or their representatives should be present at the time of eviction,
- All persons carrying out eviction should be properly identified,
- Evictions should not take place in particularly bad weather or at night unless the affected persons consent to it,

- Provisions of legal remedies,
- Provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

### Obligations

- State must work towards the progressive realization of enjoyment of the right by taking deliberate, concrete and targeted steps towards full realization of the right.
- States also have immediate obligations such as the obligation to confer legal security of tenure to those who lack it, to protect against forced evictions.
- States have the obligation to ensure the equal rights of men and women to the enjoyment of the right to adequate housing.

### Obligation to respect includes duties of States to:

- Refrain from carrying out forced evictions and demolishing houses,
- Refrain from denying security of tenure to particular groups,
- Refrain from imposing discriminatory practices that limit women's access to and control over housing, land and property,
- Refrain from infringing on the right to privacy and protection of the home.

### Obligation to protect includes duties of States to:

- Adopt legislation to ensure that private actors, property developers, landowners, and corporations comply with human rights standards such as:
  - Regulating the housing and rental markets,
  - Guaranteeing that banks and financial institutions extend housing finance without discrimination,
  - Ensuring that provision by private service providers of water, sanitation and other basic services attached

- to the home does not jeopardize their availability, accessibility, acceptability and quality,
- Preventing discriminatory inheritance practices that affect women's access to and control over housing, land and property.

Obligation to fulfill includes duties of States to:

- Adopt a national housing policy that defines the objectives for the development of the housing sector with focus on disadvantaged and marginalized groups,
- Allocate resources to meet the goals,
- Provide for housing subsidies and other measures to individuals/groups, unable for reasons beyond their control, to enjoy the right to adequate housing,
- Ensure participation of people in design and implementation of housing policies.

## **IHRL**

UDHR: Art.12, Art.17, Art.25

ICESCR: Art.11

CESCR: General Comment No. 4 and 7

Also see:

ICCPR: Art.17

CEDAW: Art.13(b), Art.14(2)(h), Art.16(1)(h)

CRC: Art.16, Art.27

ICERD: Art.5(d)(v), Art.5(e)(iii)

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## **2007 Constitution of Thailand**

Art.33: A person shall enjoy the liberty of dwelling. A person shall be protected for peaceful habitation in and for possession of his/her dwelling.

Art.55: A person who is homeless and has insufficient income for living shall have the right to appropriate aids from State.

### 34. Right to adequate food

The right to food is a part of the right to an adequate standard of living. The specific elements of the right to food are: adequacy, availability, accessibility and sustainability.

#### *Adequacy*

- Food must be free from dangerous substances like chemicals that come from polluted water or soil,
- Food production, processing, packaging and storage must follow internationally agreed standards for food safety,
- Food must fulfill the dietary and nutritional needs of different groups, such as young children and the elderly and
- It must be culturally acceptable to consumers.

*Availability:* availability of food refers to the possibilities for feeding oneself and one's family either:

- Directly from productive land or other natural resources; or
- Through well functioning distribution, processing and market systems that can move the food from the site of production to where it is needed in accordance with the demand.

*Economic Accessibility:* implies that the personal or household financial costs associated with the acquisition of adequate food should be at such level that there is no compromise made with the attainment and satisfaction of other basic needs.

*Physical Accessibility:* implies that adequate food must be accessible to everyone, including

- Physically vulnerable individuals such as infants and young children, elderly people, the physically disabled,

the terminally ill and persons with persistent medical problems including the mentally ill,

- People requiring assistance in times of emergency,
- Vulnerable groups such as indigenous peoples whose access to their traditional sources of food such as ancestral lands may be under threat.

### *Sustainability*

Food must be available and accessible over time for both present and future generations. This implies protecting land and other resources for food production.

### *Obligations*

- The principal obligation is to take steps to achieve progressively the full realization of the right to food.
- State has to ensure that everyone under its jurisdiction has access to the minimum essential food which is sufficient, nutritionally adequate and safe, and to ensure freedom from hunger.

Obligation to respect includes duties of the State to:

- Refrain from interfering with existing access to adequate food or productive resources, such as diverting water that is needed for irrigation of crops to other uses,
- Refrain from interfering with peoples' decisions about the food that they would like to cultivate.

Obligation to protect includes duties of the State to:

- Adopt measures to ensure that third parties do not deprive people of their access to adequate food.

Obligation to fulfill includes duties of the State to:

- Adopt law and national strategy plan of action to ensure food and nutritional security for all,

- Facilitate people's participation in decisions about policies,
- Promote access to credit for small farmers,
- Allocate adequate resources to adapt agricultural science and technology to serve the needs of small scale farmers,
- Provide food whenever people are unable to feed themselves for reasons beyond their control.

## **IHRL**

ICESCR: Art.11

CESCR: General Comment No. 12

*This right is interdependent with the right to work, the right to social security, the right to health etc.*

*Further women's rights are intricately linked with their right to food and food security*

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## **2007 Constitution of Thailand**

Thai Constitution does not have any specific article relating to this. However this right can be implied in Part 9 titled - rights to receive public health and welfare service from the State. Art.44, Art.51, Art.52, Art.53, Art.54, Art.55

DPFSP

Art.80: Policies on social and public health

Part 7: Economic policies

Part 8: Land use, natural resources and environment policies

Part 9: Science, intellectual

properties and energy policies

Part 10: Public participation policy

### **35. The right to vote and participate in public affairs**

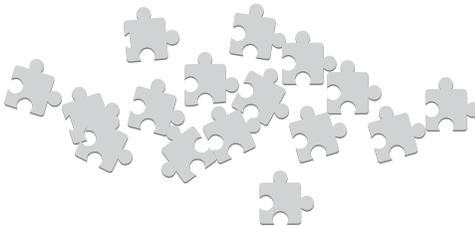
The right to vote and participate in public affairs

Public affairs refer to the exercise of legislative, executive and administrative powers. It also covers all aspects of public administration and the formulation and implementation of policy at international, national, regional and local level.

Citizens participate directly in the conduct of public affairs when they choose or change their Constitution or decide public issues through a referendum or other electoral processes.

Citizens may participate directly by taking part in popular assemblies which have the power to make decisions about local issues or about the affairs of a particular community, and in bodies established to represent citizens in consultation with government.

Citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation is supported by ensuring freedom of expression, assembly and association.



**IHRL**

UDHR: Art.21

ICCPR: Art.25

CEDAW: Art.7(b)

HRC: General Comment No. 25

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**2007 Constitution of Thailand**

Art.56: A person has the right to receive and get access to public information subject to certain conditions.

Art.57: A person shall have the right to receive information, explanation and justification from a state agency before permission is given for the operation of any project which affects interests concerning the person or a local community. This right includes the right to express opinion on such matters to the concerned agencies for their consideration.

Art.58: A person has the right to participate in the decision making process of State when it affects his/her rights and liberties.

Art.59: A person has the right to present petition and be informed of the result of its consideration within appropriate time.

Art.60: A person has the right to sue a State agency for an act or omission.

Art.61: The right of a consumer to receive actual information shall be protected.

Art.62: A person shall have the right to follow up, and to request for examination of, the performance of duties of a person holding public position, State agency and State officials.

Art.72: Every person shall have the duty to exercise his/her right to vote at an election.

**DPFSP**

Art.87: Public participation policy

### 36. Right to self-determination

Right to self-determination is a complex right that includes an internal and external aspect. The right can be conceptualized as a sliding scale of different levels of entitlements to political emancipation, constituting different forms of internal self-determination up to the apex of the right, the right of external self-determination.<sup>3</sup>

The right to internal self-determination includes the rights of all peoples to pursue freely their economic, social and cultural development. This right is linked with the right of every citizen to take part in the conduct of public affairs at any level. In order to fully respect the rights of all peoples within the State, governments should be sensitive towards the rights of ethnic groups, particularly their right to lead lives of dignity, to preserve their culture, to share equitably in the fruits of national growth, and to play their part in the governance of the country.

The right to external self-determination is recognized in exceptional circumstances. It implies a claim by a people to a certain territory. It can be exercised by maintaining existing State boundaries or by changing boundaries of existing States.

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<sup>3</sup> See F. Kirgis Jr, 'The Degrees of Self-Determination in the United Nations Era' (1994) 88 *American Journal of International Law* 304, 306 and B. Kingsbury, 'Claims by Non-State Groups in International law', (1992) 25 *Cornell International Law Journal* 481, 503

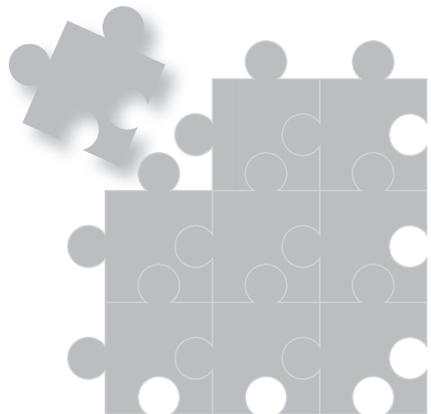
**IHRL**

ICCPR: Art.1

ICESCR: Art.1

HRC: General Comment No. 12

Thailand has made an Interpretative Declaration to Art.1 of ICESCR and ICCPR to the effect that 'self-determination' shall not be construed as authorizing or encouraging any action which dismembers or impairs, totally or in part, the territorial integrity or political unity of sovereign and independent States which have a government representing the whole people belonging to the territory without distinction of any kind.



### 37. Rights of minorities

Persons belonging to ethnic, religious or linguistic minorities have the freedom, to enjoy in community with other members of their group, their own culture, to profess and practice their own religion, or to use their own language.

This right is in addition to all other rights that minority groups enjoy as individuals in common with everyone else.

#### **IHRL**

ICCPR: Art.27

HRC: General Comment No. 23

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#### **2007 Constitution of Thailand**

The rights of minorities are guaranteed through the different rights and liberties guaranteed in Chapter III of the Constitution.



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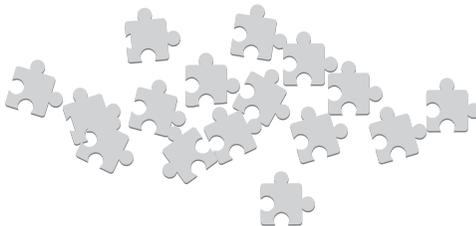
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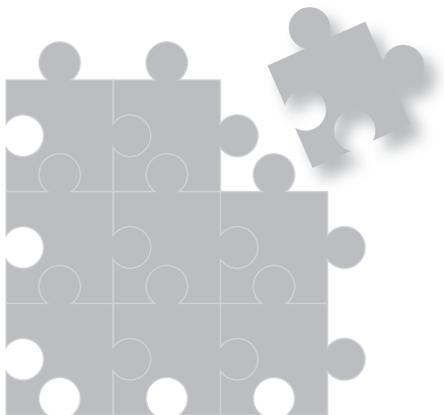
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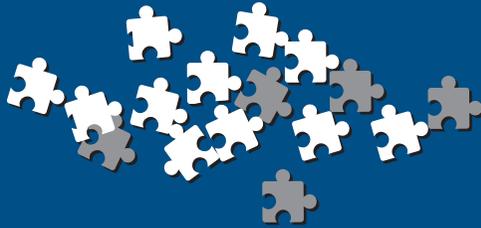
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