



No. 52101/ 739

**PERMANENT MISSION OF THAILAND  
GENEVA**

The Permanent Mission of Thailand to the United Nations Office and Other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights (OHCHR) and has the honour to refer to the Office's Note dated 29 October 2014 extending the deadline for answering the Questionnaire on the responsibilities of sub-national governments with respect to the right to adequate housing.

In this connection, the Permanent Mission has further the honour to forward herewith the complete Questionnaire as prepared by Ministry of Foreign Affairs according to the information received by Department of Local Administration, Ministry of Interior and other relevant sources. The same submission in electronic format has also been sent to srhousing@ohchr.org.

The Permanent Mission of Thailand to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 18 November B.E. 2557 (2014)



Office of the United Nations High Commissioner for Human Rights  
**GENEVA.**

**OHCHR REGISTRY**

19 NOV. 2014

Recipients :.....SPD.....  
.....  
.....  
.....

### III. Questionnaire

#### A. Distribution of responsibilities related to the right to adequate housing:

1. Please identify the levels of government (national, provincial/state, municipal) primarily responsible for the following: (where primary responsibility is shared please check more than one):

	National/ Federal	Provincial/ State	Municipal	Explanatory Notes
Housing programme	✓		✓	
Income support (eg: transfer payments to individuals, welfare, social security and/or rent subsidies/supplements)	✓	✓	✓	
Tenancy and security of tenure legislation		✓	✓	
Infrastructure (eg: Water/sanitation, electricity)	✓	✓	✓	
Prohibition of discrimination in housing	✓		✓	

2. What are the primary bases for the allocation of responsibilities among different levels of government? Please identify the appropriate provision(s) and provide a copy or link if possible:

- Constitutional
- National framework legislation or housing strategy

#### National framework

**The Eleventh National Economic and Social Development Plan (2012-2016)** - the plan is considered the guidelines for economic and social development policies in the country. Housing strategy is under Policy 5.1 Creating the just society, No. 5.1.2 Provide social services for all as a matter of basic rights, place emphasis on the self-resilience of individuals, and encourage participatory decision-making in the country's development process.

*Website:* [http://www.nesdb.go.th/Portals/0/news/plan/p11/Plan11\\_eng.pdf](http://www.nesdb.go.th/Portals/0/news/plan/p11/Plan11_eng.pdf)

**The Policy Statement of the government** – one of 11 main policies of the government is to reduce social inequality and creating opportunities to access public services (policy no. 3).

*Website:* <http://www.rdpb.go.th/RDPB/Upload/Document/Policy%20Statement%20of%20the%20Council.pdf>

**The 3<sup>rd</sup> National Human Rights Plan for 2014-2018** – the plan serves as a tool for all parties concerned to apply the promotion and protection of human rights in their works. It reflects elements from the Constitution, the recommendations adopted for implementation pursuant to the UPR, international human rights obligations in the conventions to which Thailand is party as well as issues reflected by Thai population. One of 11 dimensions identified in this plan is a human rights plan for habitation affairs.

*Website:* <http://www.rlpd.go.th/rlpdnew/index.php/2012-06-20-06-19-42/2012-06-20-06-20-59/3>

**Social Welfare Promotion Act (No. 3), B.E. 2556 (2013)** – the law promotes the provision of social welfare such as education, health care, housing, occupation and income, leisure, justice, and general service, as a means to improve people's quality of life. The Act also encourages the participation of local administrative organizations and communities in the provision of social welfare.

**Website:**

[http://www2.austlii.edu.au/~graham/AsianLII/Thai\\_Translation/Social%20Welfare%20Promotion%20Act.pdf](http://www2.austlii.edu.au/~graham/AsianLII/Thai_Translation/Social%20Welfare%20Promotion%20Act.pdf)

**The Draft Social Welfare Strategy (No. 2), B.E. 2555 (2012)** – the plan aims to reduce the inequality and promote justice in the society by providing social welfare and protection to everyone comprehensively and equally. Social welfare on housing is identified as one of 11 strategies in this plan. *(NB the plan is waiting for approval from the Cabinet by the end of November 2014.)*

**Website:** [http://www.m-society.go.th/article\\_attach/1344/1973.pdf](http://www.m-society.go.th/article_attach/1344/1973.pdf)

**Laws on related agencies**

**Regulations of the Office of the Prime Minister on the National Housing Policy Committee, B.E. 2551 (2008)** – the law establishes the National Housing Policy Committee, chaired by the Prime Minister or delegated Deputy Prime Minister.

**Website:** <http://www.ratchakitcha.soc.go.th/DATA/PDF/2551/E/088/1.PDF>

**National Housing Authority Act, B.E. 2537 (1994) and National Housing Authority Act (No.2), B.E. 2550 (2007)** – the laws mandate the National Housing Authority to be the main agency responsible for providing housing for low and middle income earners in order to assist people in achieving better living, social and economic conditions. **Website:**

[http://law.m-society.go.th/law/module.php?name=search&pg=showchild&do=30|a#20081024\\_00\\_46\\_16\\_8739.doc](http://law.m-society.go.th/law/module.php?name=search&pg=showchild&do=30|a#20081024_00_46_16_8739.doc)

[http://law.m-society.go.th/law/module.php?name=search&pg=showchild&do=29|a#20081024\\_00\\_44\\_34\\_3973.doc](http://law.m-society.go.th/law/module.php?name=search&pg=showchild&do=29|a#20081024_00_44_34_3973.doc)

**Royal Decree on the Establishment of the Community Organizations Development Institute, B.E. 2543 (2000)** – the law establishes the Community Organizations Development Institute to be responsible for strengthening the capacity of community organizations as well as providing support on occupation, income, housing, and living quality for people residing in urban and rural communities.

**Website:** [http://www.codi.or.th/documents/r\\_to\\_z/royaldecree\\_codi.pdf](http://www.codi.or.th/documents/r_to_z/royaldecree_codi.pdf)

**Government Housing Bank Act (No. 3), B.E. 2549 (2006)** – the law mandate the Government Housing Bank to be responsible for assisting the general public to secure appropriate housing finance.

**Website:** [http://www.ghbank.co.th/download/file/GHBank\\_AnnualReport2009\\_EN.pdf](http://www.ghbank.co.th/download/file/GHBank_AnnualReport2009_EN.pdf)

**Laws on decentralization**

**Determining Plans and Process of Decentralization to Local Government Organization Act, B.E. 2542 (1999)** – the law stipulates the process and timeframe of decentralization as well as the regulations on the transfer of authority and responsibilities to local administrative organizations including housing arrangement (Section 16).

**Website:** [http://thailaws.com/law/t\\_laws/tlaw0070\\_6.pdf](http://thailaws.com/law/t_laws/tlaw0070_6.pdf)

**Others**

*Other relevant national legislations include **Town Planning Act, B.E. 2518 (1975) and Land Readjustment Act, B.E. 2547 (2003)** which regulate the effective use of land.*

**Website:** [http://www.dpt.go.th/foreign/index2.php?option=com\\_wrapper&view=wrapper&Itemid=36](http://www.dpt.go.th/foreign/index2.php?option=com_wrapper&view=wrapper&Itemid=36)  
[http://thailaws.com/law/t\\_laws/tlaw0140\\_2.pdf](http://thailaws.com/law/t_laws/tlaw0140_2.pdf)

- Sub-national level legislation or housing strategy
- Inter-governmental agreement

Other – Please explain

3. What role does the national level government play in relation to housing and related programs? How is compliance with the right to adequate housing structured between the national and sub-national levels? If possible please kindly provide concrete examples of how these roles and compliance mechanisms are operationalized.

Thailand is party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and we have been implementing development policies in order to fulfil the international obligations under the treaty as well as to improve the living condition of the citizens.

#### Housing policy

Realising the importance of the promotion and protection of human rights including the right to adequate housing, particularly for vulnerable and underprivileged groups, inequality reduction has been identified as one of the main development objectives in several national frameworks including the present 11<sup>th</sup> National Economic and Social Development Plan (2012-2016) as well as the current government's main policy. One of many strategies to achieve that goal is the administration of housing programme.

The government has been carrying out a number of activities relating to housing programmes including the provision of housing particularly for vulnerable and underprivileged groups such as the "Baan Eua-Arthorn Housing" (Home of Compassion/ Caring) Project and the "Baan Mankong" (Collective Housing) Programme; the provision of financial assistance; and land readjustment programmes among others.

In November 2014, the Cabinet approved the 3<sup>rd</sup> National Human Rights Plan. All agencies are required to apply the promotion and protection of human rights, including the right to adequate housing as reflected in a human rights plan for habitation affairs, in their organization plan of actions and strategies. The adoption of the 3<sup>rd</sup> National Human Rights Plan will ensure that development policies will need to go hand in hand with the promotion and protection of human rights taking into account the needs particularly of the vulnerable groups.

#### Concerned agencies

At the national level, the government has given mandate to the three main agencies to be responsible for policy and works related to housing programmes. These agencies are (1) the National Housing Authority – a state enterprise attached to the Ministry of Social Development and Human Security; (2) the Community Development Organization Institute – a public organization reporting directly to the Minister of Social Development and Human Security; and (3) the Government Housing Bank – a specific purpose financial institution under the Ministry of Finance's supervision.

In 2008, the government approved the establishment of the National Housing Policy Committee of which the Prime Minister is a Chair and representatives from concerning agencies (i.e. the Ministry of Social Development and Human Security, the Ministry of Finance, the Ministry of Natural Resources and Environment, the Ministry of Interior, the Office of the National Economic and Social Development Board, the Budget Bureau, the National Housing Authority, the Community Development Organization Institute and the Government Housing Bank) serve as Committee Members. The main responsibility of the Committee is to oversee the formulation of comprehensive long-term housing policy. The Committee also helps all concerned agencies to work in a more holistic and integrated manner.

As for the local level, the administrative reform in 2002 has led to the decentralisation of authority and responsibilities to local administrative organizations including the duty to arrange housing for the public. Nevertheless, while the authority and responsibilities to



arrange housing have been transferred to local administrative organizations, the formulation of policies and frameworks with regards to housing remain under the authority of the central government.

4. Where sub-national governments hold key responsibilities in relation to the right to adequate housing, please describe how programs and policies are co-ordinated nationally and what responsibilities remain with national level institutions.

With regards to the provision of housing in response to the right to adequate housing, local administrative organizations hold the responsibility in implementing housing projects in line with housing policies that are developed at the national level (related frameworks and laws are listed in Question 2). The role of the central government agencies is only to monitor and supervise the overall implementation of local administrative organizations. In some cases where local administrative organizations have limited capacity, the projects may be jointly operated between local administration and central government.

It is however important to note that although the policy is developed by the central government, local participation has always been encouraged to provide inputs and submit their local implementation review during national policy formulation process in order to ensure that the policy will truly correspond to the needs of local people on the ground. The formulation processes of the National Economic and Social Development Plan and the National Human Rights Plan are also cases in point.

5. Where housing and related programs are administered by sub-national level governments, by whom and how are these programs funded? Are conditions attached to the funding which seek to ensure the resources are spent in a way that protects the right to adequate housing? How is this monitored?

According to the decentralization law, each fiscal year the central government will allocate budget to local administrative organizations who will then utilise it in carrying out their delegated tasks such as distribution of monthly allowances to the elderly, disabled persons, AIDS patients, and village public health volunteers; drug prevention and control; water management; education management as well as housing programme. The allocation of budget will be in accordance with the approved plans as proposed by local administrative organizations. The approval process of these plans by the local council is to ensure that proposed activities are beneficial and respond to the needs of the people.

In implementing projects, local administrative organizations will have to comply with budget rules and regulations. Moreover, their budget use will also be monitored at all levels. At the national level, the Budget Bureau, the Office of the Auditor-General and the Ministry of Interior will monitor the overall performance. The laws also require local administrative organizations to report their budget report and performance to the provincial governor and district chief as well as the local council. At the end of the fiscal year, local administrative organizations are obliged to publicise the budget report to their constituencies.

The entire budgeting process does not only ensure transparency, but it also helps ensure that the government budget is spent in a way that responds to the needs of local people so that their rights are duly promoted and protected.

## **B. Accountability of Sub-National Governments**

1. Are sub-national governments legally accountable to the right to adequate housing on the basis of any of the following?

- International human rights law? (Yes/No)
- Constitution/National Bill of Rights (Yes/No)

- National or sub-national legislation (Yes/No)
- State level or municipal level Bills of Rights/Charters (Yes/No)
- Inter-governmental agreements (Yes/No)
- Conditional financing (eg: budget transfers from national level to sub-national) (Yes/No)

2. With respect to the above and where applicable, please identify:

i. the relevant provision.

- **The Constitution of the Kingdom of Thailand (Interim), B.E. 2557 (2014)** – Section 4 of the Constitution guarantees human dignity, rights, liberties and equalities for all Thais in accordance with international obligations to which Thailand is a party to (including the ICESCR).

- **The 3<sup>rd</sup> National Human Rights Plan for 2014-2018** – each agency will need to report the progress in implementing the plan, including the human rights plan for habitation affairs, to the Ministry of Justice once a year. The Ministry of Justice will then comply information before submitting the report to the Cabinet.

- **The Draft Social Welfare Strategy (No. 2), B.E. 2555 (2012)** – the draft plan has identified development targets, indicators and planned activities to achieve those targets so that concerning agencies could apply the strategy in their work plans. The National Committee on Social Welfare Promotion will be the main mechanism to monitor the implementation of the plan.

- **Determining Plans and Process of Decentralization to Local Government Organization Act, B.E. 2542 (1999)** which stipulates the responsibilities of local administrative organizations including those related to the right to adequate housing.

ii. the sub-national levels of government to which the legal provision applies.

All local administrative organizations are bound by the above-mentioned provisions.

iii. the means of enforcement (eg: courts, tribunals, national human rights institution, including ombudsmen, administrative mechanisms, etc.) and examples of how these means have been applied.

*The performance of local administrative organizations, including the fulfilment of their obligations such as the duty to arrange housing, is monitored by the local council, the provincial governor, the district chief as well as the Ministry of Interior.*

National Human Rights Commission (NHRC) and the Department of Rights and Liberty Protection are also open for the public to file complaints deemed as related to restriction or violation of human rights as guaranteed by the law. Those complaints with reasonable ground will therefore be further pursued and referred to relevant agencies for appropriate actions.

3. Are sub-national governments involved in State reporting to international human rights monitoring mechanisms and in implementing recommendations? (eg, UN treaty monitoring body, Universal Periodic Review). If so, how? Please kindly provide an example.

The process to submit the country report to any international human rights monitoring mechanisms is inclusive as it usually involves all line ministries and other concerning stakeholders such as civil society and the public. One clear example is the Universal Periodic Review (UPR) process of which Thailand had presented its country report during the 12<sup>th</sup> Session of the UPR Working Group in October 2011.

During the preparation process for the country UPR review, we organised 14 UPR clinics throughout the country to generate in-depth discussions and 5 public consultations (four regions and Bangkok) to discuss the draft report. The process allowed the government to engage with all concerning stakeholders including representatives from local administrative organizations and their constituencies who shared their opinions and concerns over issues such as land tenancy, poverty reduction, health care services etc.

As for implementing the recommendations, a committee consisting of representatives from concerning agencies and experts has been set up to follow up the implementation of recommendations received from the first cycle review. The plan to follow up the recommendations has also been developed with clear information on responsible agencies, activities, and timeframe for each recommendation.

Moreover, the 3<sup>rd</sup> National Human Rights Plan has incorporated recommendations and voluntary pledges under the UPR framework into its human rights targets and indicators. This will help ensure full implementation of the recommendations for agencies concerned.

4. Apart from the legal and international accountability described above, what political or institutional accountability mechanisms are in place in your country through which sub-national governments are held accountable to standards or requirements linked to the implementation of the right to adequate housing (eg, Government review procedures, ombudsman/national human rights institutions, local human rights councils). Please provide any useful examples of how these have been used and, if possible, assess the outcome.

- **The National Human Rights Commission (NHRC)** – this independent organization under the Constitution plays an important role in protecting human right of the people. When there are petitions, the NHRC will act as the mediator in coordinating, negotiating and mediating among the parties concerned to find solutions in an amicable manner.

- **Rights and Liberties Protection Department, the Ministry of Justice** – this government agency was established with the mandate to promote and protect human rights and liberties of the people. It also helps protect victims of human rights abuses especially in criminal cases.

- People whose rights are violated or restricted may also file complaints to the Ombudsman, the Administrative Court as well as the government hotline.

5. Please kindly identify what in your view may be the three most significant challenges in your country to effective accountability of sub-national governments to the right to adequate housing as guaranteed under international human rights law and identify key strategies or ideas for addressing these challenges.

One of the main challenges in implementing housing policy in Thailand is budget constraint which obstructs the opportunity to provide housing for all people in need. The government has tried to solve this problem by adopting a plan that will identify groups and areas that urgently need assistance. This process is done with feedbacks from local administrative organizations.

In addition, most of local administrative organizations' officers as well as the general public are still lack of awareness and adequate knowledge on human rights and international human rights conventions. The government, therefore, attaches importance to providing more training and education on human rights to bring about awareness and better understanding on the issue among concerning government authorities and the general public.

Recently, illegal inhabitation as well as illegal claim of land rights of the national forest reserve has become an increasing challenge for the government. The issue needs to be addressed based on related laws and regulations taking into account a balanced approach of rights and responsibility of all parties involved. While the poor and the people in vulnerable situation should be accorded with appropriate assistance, the entities that claim for benefits based on their business interests should be prevented from taking advantage of any relevant support schemes put in place by the government.