

Open Letter

To: The Director-General of the Rights and Liberties Protection Department, Ministry of Justice
United Nations Development Programme (UNDP)
National Human Rights Commission of Thailand (NHRCT)
United Nations Office of the High Commissioner on Human Rights (UNOHCHR)

Re: Concerns regarding the Draft National Action Plan for Business and Human Rights

Civil society had high hopes for the visit to Thailand by members of the UN Working Group (UNWG) on business and human rights (26 March - 04 April 2018). We welcomed this first official visit to "examine efforts to prevent, mitigate and remedy adverse human rights impacts of business operations." More than 250 representatives took part in the national consultations and all of us were committed to working with UNWG, OHCHR, UNDP and the government to move forward. We had expected the same level of commitment from State and other agencies.

In their final report the UNWG pointed out that both the Government and Thai businesses should regard Civil Society Organizations (CSOs) and Human Rights Defenders as "critical partners" and engage with them constructively to prevent, mitigate and remedy adverse human rights impacts. Therefore it is extremely disappointing to find the draft National Action Plan (NAP) is seriously lacking in both content and due process.

The Thai government was due to submit a draft of the NAP to CSOs before the National Consultation Workshop "The Roles of Civil Society Organizations in Drafting the National Action Plan (NAP) on Business and Human Rights" scheduled for the 23rd August 2018. However, the draft did not reach CSOs until early morning on the 22 August, less than 24 hours before the consultation. CSO representatives and expert speakers are expected to comment on the draft, providing useful critique, analysis and guidance. Failing to submit the draft in a timely manner means the Consultation cannot be meaningful and is waste of time and resources for all involved. The manner in which the consultation on the draft NAP has been managed shows a lack of respect for CSOs, and brings into question the government's sincerity and commitment to upholding the UN standards of Business and Human Rights.

Furthermore the draft NAP is seriously lacking in substance and has insufficient detail. The UNWG report¹ included the voices and concerns of many sectors. However the draft NAP has failed to mention or adequately address at least sixteen of the most serious issues raised. These include but are not limited to:

¹ UNWG in Business and Human Rights
<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22915&LangID=E>

1. Human rights risks and impacts related to development projects
2. Environmental and social impact assessments
3. Special Economic Zones
4. Thai investments abroad
5. Human rights defenders and civic space
6. WHRDs
7. Trafficking and forced labor
8. Migrant workers
9. Persons with disabilities
10. Sex workers
11. Gender lens to business and human rights
12. Ethnic minorities
13. Labor rights
14. Senior citizens
15. Access to remedies
16. Operational-level grievance mechanisms
17. Children Rights ²

The UNWG guidelines also require government to identify how the NAP will relate to other national plans and strategies. We cannot see how the draft can relate to the Thai government's 20 year strategy which was created without public participation. We believe developing National frameworks without democratic processes and true participation will result in flawed strategies and actions.

The Thai NAP will be the first in Asia and is expected to serve as an example for other countries in the region. However the draft NAP in its current form is an embarrassment to Thailand and a poor model for the region. At the moment the NAP is still at the stage of developing the

² Additional to The UNWG report

guidance processes, the content of the NAP must be corrected before moving to become legally binding. We urge the government to redraft the NAP ensuring it reflects the issues raised by the Thai people and the UNWG; reschedule the National Consultation Workshop for a date after CSOs have received the new draft and we have had a reasonable amount of time to prepare our analysis and critique.

Sign by

The Southern Peasant Federation of Thailand

The People's Anti-mining Network of Thailand

EnlawThai Foundation

Empower Foundation

The Women Human Rights Defenders Network of Thailand

Protection International