



## RIGHTS OF PERSONS WITH DISABILITIES

### Brief Assessment of the Implementation of the 2nd Cycle UPR Recommendations

During the 2nd UPR Cycle, Thailand received and accepted nine recommendations on the rights of Persons with Disabilities. The recommendations received concerned the necessity to address the promotion and protection of the rights of Persons with Disabilities, by reducing stigma and discrimination; the reformation of legislation; the necessity to take effective steps in addressing their educational needs; as well as the development of health institutions to tackle the **specific needs** of Persons with Disabilities.

The number of Persons with Disabilities has increased in recent years. However, their rights have not been mainstreamed across all sectors to ensure equal access to social justice, health care, education, and government services. The charitable approach to disability continues to be preferred over the legalised rights-based approach, resulting in discrimination and preventing Persons with Disabilities from living in dignity and fully exercising their political, economic, social, and cultural rights.

## NATIONAL LEGAL FRAMEWORK

- First Strategic Plan for the Empowerment of Women with Disabilities (2013-2016)
- Five-Year Plan on the Development of Education for Persons with Disabilities (2012-2016)
- Fourth National Plan of Empowerment of Persons with Disabilities (2012-2016)
- Persons with Disabilities Empowerment Act B.E. 2550 (2007) and its amendment B.E. 2556 (2013)
- The Education Act for Persons with Disabilities B.E. 2551 (2008)

## REALITIES ON THE GROUND

### Challenges

### Cases, Facts, Comments

#### Challenge 1: Persons with Disabilities are discriminated against in employment and education

The national legislative and policy frameworks concerning discrimination and offering protection to persons with disabilities are riddled with flaws, both in content and practice. Discrimination on the ground of disability is prohibited by the Constitution of 2017, as well as Sections 15, 16, and 17 of the Persons with Disabilities Empowerment Act of 2007. Nevertheless, it remains a serious concern in Thai society, as there are persisting negative attitudes, stereotypes and prejudices toward Persons with Disabilities.

**Persons with Disabilities have almost no employment opportunities in an open labour market, besides stereotypical, unskilful and low-paying jobs that lack security.** Despite the adoption of policies meant to remedy employment discrimination, most of them have been denied employment in an open labour market due to their disabilities. This is due to a myriad of factors, including low educational attainment levels, lack of accessible or disability-friendly facilities in workplaces, discriminatory attitudes, and stereotyping. Also, Persons with Disabilities are often exploited by employers who seek to appear to be complying with the Persons with Disabilities Empowerment Act to benefit from tax deductions. In addition to this, the option of paying a levy results in many employers opting to pay instead of employing Persons with Disabilities.



# REALITIES ON THE GROUND

## Challenges

## Cases, Facts, Comments

### **Students with disabilities employed to avoid paying to the Fund for Empowerment of Persons with Disabilities**

In 2012, ABC Donuts Thailand hired students with disabilities on a part-time basis with a salary of 600 THB per month. A study revealed that all students with disabilities were listed as full-time workers, remunerated with 9,000 THB/month. ABC Donuts admitted that the students were used to avoid paying to the Fund for Empowerment of Persons with Disabilities while benefiting from full tax deductions. A claim was submitted to the Sub-Committee on the Elimination of Discrimination against Persons with Disabilities chaired by the Permanent Secretary of the Ministry of Social Development and Human Security (MSDHS), and ABC Donuts Thailand was fined. Despite this, the underpaid salary of the employed students was not compensated.

### **For many Persons with Disabilities, the right to inclusive education remains unfulfilled**

Legally, all persons are entitled to 12 years of free, basic education. However, statistics show that 89,437 Persons with Disabilities, whose ages fall within the range for whom education should be offered, do not obtain it. For many Persons with Disabilities, the right to inclusive education remains unfulfilled, since some schools refuse to admit students with disabilities. In addition to infrastructural impediments, Persons with Disabilities' access to education is hampered by a dearth of human resources specifically qualified to teach people with disabilities.

## **Challenge 2: Women with Disabilities face multiple and intersectional discrimination**

For women with disabilities, the intersection between gender and disability leads to extreme oppression and abuse of rights. As of the 2018 Annual Report, there are 47.67% women and 52.33% men, showing a higher proportion of women with disabilities than men. However, no data on women and girls with disabilities participating in mainstream development programs and services, such as health and sexual and reproductive health, is available. Furthermore, neither PDEA B.E. 2550 (2007) nor Gender Equality Act B.E. 2558 (2015) mentions women with disabilities. Besides, women and girls with disabilities are absent in the National Council of Women.

**Women with Disabilities are subject to physical and mental violence and abuse at both individual and structural levels.** Particularly, women with intellectual disabilities are vulnerable to rape by men in their community or family. Despite the fact that sexual abuse is a pervasive issue, many offenders go unpunished, and no official records of sexual abuse and rape offenses are recorded, since community leaders and victims' families are often reluctant to report incidents. Victims' lack of protection and access to justice is exacerbated by inaccessibility, a lack of culturally relevant and accessible help, and considerable discrimination against women with disabilities. In 2020, a woman with intellectual disabilities was raped and murdered, in Chonburi Province.

## **Challenge 3: Persons with Disabilities face barriers in accessing healthcare services and public environment**

When it comes to obtaining social services, there are policy, physical, and mental hurdles for Persons with Disabilities. Intersectionality further multiplies barriers when seeking access.

**Access to healthcare and public health information is challenging for Persons with Disabilities.** Both infrastructural and attitudinal barriers, including the scarce preparation of healthcare staff with regards to disability rights, constitute serious challenges. Also, the limited availability of sign language interpreters poses difficulties for sign language users to have their health care needs met. In addition, Persons with Disabilities continue to be subjected to involuntary medical treatment, including forced sterilisation and abortion.

### **Lack of accessibility to public environment**

The majority of public transport is not usually equipped with accessible features. For instance, the BTS Skytrain remains inaccessible to commuters with disabilities, as some stations lack functioning lifts, and the majority of those with elevators connecting to ground level are only available on one side of the street.



## REALITIES ON THE GROUND

### Challenges

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#### Challenge 4: Lack of accessibility to the justice system

The lack of accessibility to the justice system, including legal aid, sign language interpreters in the courtroom, and procedural accommodations, are all obstacles to obtaining justice. Furthermore, sign language interpreters are in short supply at public offices, particularly in remote areas.

When cases of discrimination occur, Persons with Disabilities have limited access to legal recourse. Not believing in its effectiveness, 90% of them do not file claims before government agencies. Furthermore, as illustrated by the **Case of “Ying”** (alias), who was sexually harassed by her employer, the whole procedure is costly and time-consuming. She decided to file a lawsuit against him, but due to the legal system's inaccessibility, she ran into a number of roadblocks, one of which being the lengthy procedures. Furthermore, she was not provided with a language interpreter, and despite her desire to present the facts to the court, she felt defenseless because she was unable to interact directly with the court. In addition, during the court trials, she had to listen to rape scenarios over and over again. Ying's story exemplifies the impact of an inaccessible legal system for Persons with Disabilities, as well as how it leads to human rights breaches.

#### Challenge 5: The impact of COVID-19 on Persons with Disabilities

The COVID-19 pandemic has elevated hazards, exacerbated unmet health requirements, and impacted disproportionately the socio-economic life of Persons with Disabilities. Because of the lack of human rights approach, COVID-19 revealed the incapacity to deal with Persons with Disabilities, including intersectional disabilities, that were not included in any of the Government responses to the COVID-19 pandemic.

COVID-19 has had a disproportionate impact on Persons with Disabilities due to an increased risk of poor disease outcomes, limited access to public health care, and the negative social consequences of efforts to mitigate the pandemic. They have been affected by the lack of accessible public information on the pandemic's evolution, and, most importantly, **general COVID-19 responsive measures have excluded Persons with Disabilities.**

## RECOMMENDATIONS

### 1. On challenge 1: Persons with Disabilities are discriminated against in employment and education

- 1.1.** In line with the Committee on the Rights of Persons with Disabilities Concluding observations to Thailand (2016), **take all the measures necessary, including upgrading the Sub-Committee on Elimination of Discrimination against Persons with Disabilities to a Committee, to ensure that it can effectively and independently address cases of discrimination on the grounds of disability, including intersectional and multiple discrimination.**
- 1.2.** In line with the Committee on the Rights of Persons with Disabilities Concluding observations to Thailand (2016), **pay attention to the links between article 27 of the Convention and Sustainable Development Goal 8, target 8.5, to ensure the achievement of full and productive employment and decent work for all including persons with disabilities and equal pay for work of equal value.**
- 1.3.** In line with the Committee on the Rights of Persons with Disabilities Concluding observations to Thailand (2016), **adopt all measures necessary to ensure the provision, as a legally enforceable right, of inclusive quality education to persons with disabilities, especially children with disabilities, in mainstream schools within their communities.**

### 2. On challenge 2: Women with Disabilities face multiple and intersectional discrimination

- 2.1.** In line with the Committee on the Rights of Persons with Disabilities Concluding observations to Thailand (2016), **adopt a strategy for guaranteeing full protection against discrimination, and enjoyment of the rights of women and girls with disabilities.**



## RECOMMENDATIONS

### 3. On Challenge 3: Persons with Disabilities face barriers in accessing healthcare services and public environment

- 3.1. In line with the Committee on the Rights of Persons with Disabilities Concluding observations to Thailand (2016), **strengthen the efforts to ensure that all health services for the general public are fully accessible and incorporate a gender perspective.**
- 3.2. In line with the Committee on the Rights of Persons with Disabilities Concluding observations to Thailand (2016), **take measures to provide mandatory training to all health professionals on the rights of persons with disabilities, including the right of all persons with disabilities to give their free and informed consent.**
- 3.3. In line with the Committee on the Rights of Persons with Disabilities Concluding observations to Thailand (2016), **ensure the effective cooperation of cross-cutting ministries and the adoption of a comprehensive accessibility plan covering all facets in line with general comment No. 2 (2014) on accessibility.**

### 4. On challenge 4: Lack of accessibility to the justice system

- 4.1. In line with the Committee on the Rights of Persons with Disabilities Concluding observations to Thailand (2016), **implement physical, informational and communicational accessibility, including through the provision of professional sign language interpreters; ensure the training of court personnel, judges, police officers and prison staff so as to uphold the rights of persons with disabilities, including the right to a fair trial.**

### 5. On challenge 5: The impact of COVID-19 on Persons with Disabilities

- 5.1. In line with the Committee on the Rights of Persons with Disabilities Concluding observations to Thailand (2016), **develop and use accessible communication formats, such as Braille, tactile formats, sign language, easy-read and others, for mass media and public information ensure the accessibility of government websites.**
- 5.2. **Engage Persons with Disabilities and their representatives in planning for the COVID-19 response, to address the needs of all persons, including in peripheral and remote areas.**

## REFERENCES

Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of Thailand (CRPD/C/THA/1), (12 May 2016), available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/THA/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/THA/CO/1&Lang=En)

Persons with Disabilities Empowerment Act B.E. 2556 (2013), available at: [https://www.ilo.org/dyn/natlex/natlex4.detail?p\\_isn=96440&p\\_lang=](https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=96440&p_lang=Education Act for Persons with Disabilities B.E. 2551 (2008), available at: http://nep.go.th/sites/default/files/files/law/38.pdf)

Khaosod English, Three Years of Excuses Later, BTS Still Not Accessible, (20 January 2018), available at: <https://www.khaosodenglish.com/news/transpo/2018/01/20/three-years-excuses-later-bangkok-bts-still-not-accessible/>

Manushya Foundation, Thematic Assessment Chapter of the Independent CSO NBA on Business & Human Rights, Discrimination Against Marginalised Communities: LGBTI Individuals, Women, People living with HIV, Persons with Disabilities, Elderly persons, Other minorities, (March 2019), available at: <https://www.manushyafoundation.org/nba-bhr-discrimination-communities>

Ministry of Social Development and Human Security, Report of Situations Concerning People with Disability in Thailand by Promotion and Development of Life Quality of People with Disability Department, (2018), available at: [www.dep.go.th](http://www.dep.go.th)

NADT, Report on Disability Situation in Thailand 2561, (2018), available at: <https://nadt.or.th/en/stat61.html>

Persons with Disabilities Empowerment Act B.E. 2550 (2007), available at: <http://nep.go.th/sites/default/files/files/law/197.pdf>

Thailand CRPD Alternative Report For the UN Committee on the Rights of Persons with Disabilities, Submitted By Disabilities Thailand and Network of Disability Rights Advocates (DTN), (March 2016).

The Pattaya News, Suspect arrested over alleged murder and rape of mentally disabled woman found in garbage pile in Chonburi, (13 August 2020), available at: <https://thepattayanews.com/2020/08/13/suspect-arrested-over-alleged-murder-and-rape-of-mentally-disabled-woman-found-in-garbage-pile-in-chonburi/>

UNICEF, Policy Implementation Analysis on Disability Grant of Thailand, (2019), available at: <https://www.unicef.org/thailand/media/5511/file/Policy%20Implementation%20Analysis%20on%20Disability%20Grant%20of%20Thailand%20EN.pdf>