

THAILAND

1. Discriminatory family code

Under section 1448 of the Civil and Commercial Code, the minimum **legal age for marriage** is 17 years for both men and women, and individuals are legally free to marry their partner of choice.¹ United Nations data from 2012 estimated that 11.2% of girls between 15 and 19 years of age were married, divorced or widowed², while UNICEF reports that 3% of Thai children are married by the time they are 15.³

Women have equal legal rights to exercise **parental authority** in the family, but traditionally men are seen as the head of the household. In the event of **divorce** in which the parents cannot agree upon custody rights, it is quite common for judges to grant custody to fathers, but for the mother to continue to look after the children on a day-to-day basis.⁴

Article 1604 of the Civil Code states that men and women have equal rights with regards to **inheritance**. However, according to a UN Committee on the Elimination of Discrimination against Women (CEDAW) report, heirs are entitled to inherit in the following order: i) descendants; ii) parents; iii) siblings who share the same father and mother; iv) siblings who share one parent; v) paternal and maternal grandparents; and vi) aunts and uncles.⁵ Therefore, in practice, it is traditionally the youngest daughter who inherits most of the property.⁶ Additionally, Muslim women in Thailand's southern region are governed by Muslim inheritance and property laws, where civil society groups have reported gender-discrimination in relation to land distribution and inheritance that are exceedingly difficult to address due to the insurgency in the region.⁷

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Although **polygamy** is not lawful, with section 1452 of the Civil and Commercial Code stating that “[a] marriage cannot take place if the man or woman is already the spouse of another person”, it is not a criminal offense. According to a report published by the UN Committee on the Elimination of Discrimination against Women (CEDAW), a man who engages in a second marriage is considered to have committed perjury against the presiding officiate, and can be fined or imprisoned for up to six months. However, polygamy is still practiced and, while there

¹ CEDAW (2004), p.84

² UN (2012)

³ UNICEF (2013)

⁴ CEDAW (2004) p. 87-88

⁵ CEDAW (2004), p.88.

⁶ FOA Gender and Land Rights Database (2013)

⁷ Asian News (2013)

are no official statistics on the prevalence of the practice, as of 2004 no one had been imprisoned for bigamy.⁸

According to the 2004 report to the UN Committee on the Elimination of Discrimination against Women (CEDAW), men and women in Thailand do not have the same **rights to divorce**, as a woman cannot file for divorce on the grounds of her husband's adultery, but a man can file for divorce on the grounds of his wife's adultery.⁹

2. Restricted physical integrity

The Act on the Prevention and Resolution of Domestic Violence came into force in 2007, making **domestic violence** against women a criminal offence. Domestic violence is defined as "any act done with the intention to or in the manner likely to cause harm to the body, mind or health of a family member or to exert coercion or immoral influence over a family member in order to wrongfully cause him to do, not to do or yield to any act, but not including an act done negligently". A person committing domestic violence is liable to a fine of up to 6000 Baht or six months imprisonment or both. The Act includes provisions enabling government officials to make medical, social and psychological assistance available to survivors of domestic violence, as well as provisions providing for a range of provisional remedial protection measures.¹⁰ However, domestic violence against women continues to be a significant problem in Thailand: 44% of women have been victims of physical or sexual domestic violence in their lifetime in 2005.¹¹ According to the US Department of State, the Health Ministry reported that 11,074 adult women sought assistance from the ministry's One Stop Crisis Center for spousal abuse in 2011. Of these victims, 79% reported physical abuse and 16% reported sexual abuse.¹² The Domestic Violence Act has been criticized for emphasizing and promoting mediation, conflict resolution, and settlement and family reunification, which several NGOs say has led to a low overall conviction rate.¹³ According to the 2004 UN Committee on the Elimination of Discrimination against Women (CEDAW) report, spousal rape is rarely understood as a violation of a woman's rights, but rather as a private matter between a husband and wife.¹⁴ While survey data from 2006 indicates that most people in Thailand believe that it is rarely justifiable for a man to beat his wife, only 38% answered that it was never justifiable.¹⁵

Rape, including spousal rape, is a criminal offence in Thailand, with penalties depending on the age of the victim, the type of assault, and the physical and mental condition of the victim after the assault.¹⁶ The Criminal Code Amendment Act (No.19) B.E. 2550 (2007) expands the definition of rape, criminalises marital rape and imposes more severe penalties on offenders.¹⁷

⁸ CEDAW (2004), p. 85-86

⁹ CEDAW (2004) p. 86.

¹⁰ Domestic Violence Victim Protection Act, B.E. 2550 (2007)

¹¹ OECD (2014), *Gender, Institutions and Development Database*, <http://stats.oecd.org><http://stats.oecd.org>

¹² US State Department (2013)

¹³ Hoctor (2012), p.23

¹⁴ CEDAW (2004), p.22

¹⁵ World Values Survey (WVS) (2007), Question V208.

¹⁶ US State Department (2013)

¹⁷ Thai Government (2013)

However, if the victim is between 13 and 15 years of age and the offender can prove that they were engaged, or the court grants the marriage of the victim and the offender, the punishment shall not be served.¹⁸ According to the US Department of State human rights report, police reports indicate that in 2011 the police reported receiving 3,527 rape cases during the year, and arrested suspects in 2,089 of these cases.¹⁹ It is unclear how many of these arrests eventually resulted in a conviction. In order to support victims, the Thai government has established 'One Stop Crisis Centers' based in hospitals that provide comprehensive services for victims of violence including, medical, law enforcement, NGO assistance, emergency shelter, and government advice.²⁰

Notwithstanding these efforts, the US Department of State reports that rapes are underreported, due in part to a perception that law enforcement agencies do not have the resources or will to bring perpetrators to justice.²¹ Although the Criminal Code stipulates that all female complainants of sexual assault be attended to by a female officer²², as at August 2011 only 144 of 6,542 investigators were women, making it impossible to fulfil this legislative requirement.²³ Moreover, NGOs have reported that access to justice for gender-based violence is particularly difficult for particularly marginalized women, including migrant women workers, Muslim women in the Southern Border Provinces, women from Burma living in displaced persons camps and female sex workers.²⁴

The 2004 CEDAW report notes that **sexual harassment** in workplaces and public places is a common occurrence.²⁵ Although sexual harassment in employment is unlawful in a number of circumstances, prosecution of the act is made difficult by the fact that the legal definition of sexual harassment is vague, and decisions as to whether a course of conduct constitutes sexual harassment is left to the assessment of a relevant individual, official or judge.²⁶ Additionally, there is no one law that cohesively deals with sexual harassment in all relevant contexts.²⁷ For example, the Labour Protection Act, which applies to non-civil servant workers, only prohibits sexual abuse, harassment and nuisance against employees by their superiors, only applies in certain employment contexts and proscribes a relatively small fine as penalty.²⁸ Moreover, sexual harassment is not addressed beyond the employment context.²⁹

There is no evidence to suggest that **female genital mutilation** (FGM) is practised in Thailand.

¹⁸ The Thailand Criminal Code B.E. 2499 (1956) as amended by the Criminal Code (No.17), B.E. 2547 (2003), Section 277

¹⁹ US State Department (2013)

²⁰ Thailand Government (2013)

²¹ US State Department (2013)

²² Thailand Criminal Code B.E. 2499 (1956) as amended by the Criminal Procedure Code Amendment Act (No. 28), B.E.2551 (2008), Section 9

²³ Hoctor (2012), p.27.

²⁴ Hoctor (2012), p.7.

²⁵ CEDAW (2004), p.22

²⁶ Hoctor (2012), p.28-30

²⁷ Hoctor (2012), p.28-30

²⁸ Labour Protection Act B.E.2541 (1998), Section 147 (fine not exceeding 20,000 THB)

²⁹ Hoctor (2012), p.28

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Human **trafficking** and the commercial sex trade are also significant problems in Thailand. In response, the government has passed strong anti-trafficking laws with harsh criminal penalties.³⁰ However the UN has reported that implementation and enforcement of the law remains weak and is often hampered by the deep-rooted corruption, with migrant, stateless, and refugee children, including those belonging to hill tribes, particularly vulnerable to trafficking and exploitation.³¹

Abortion is legal in Thailand in cases of rape and incest, foetal impairment, or when the woman's mental or physical health is in danger.³² Women have the right to use contraception and to access information about contraceptives and reproductive health,³³ although women cannot be sterilized without their husband's consent.³⁴ State-funded provision of reproductive health services is comprehensive, with approximately 80% of women and girls aged 15 to 49 having used modern contraception methods, according to UN data published in 2012.³⁵ While statistics were unavailable, the US State Department estimates that the percentages of males, ethnic minorities, and migrant workers who had access to contraception were estimated to be lower.³⁶ Skilled health personnel attended approximately 98% of births, and prenatal and postnatal care was estimated to be accessible by more than 90% of mothers and babies.³⁷

3. Son bias

The male-to-female **sex ratio** at birth is 1.05 and for the working age population (15-64) is 1.05.³⁸

There is no evidence to suggest that Thailand is a country of concern in relation to **missing women**.

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Enrolment and attendance rates at primary school are 2% higher for boys than for girls, according to UNICEF, while at secondary level, enrolment and attendance rates are higher for girls. Overall, this would not indicate pronounced bias towards sons in regard to access to education.³⁹

4. Restricted resources and assets

In theory, women in Thailand have the same legal **access to land** as men. However, the law allows that only the head of the household may acquire land and the Ministry of Interior

³⁰ The Anti-Trafficking in Persons Act B.E 2551 (2008)

³¹ UN (2012b)

³² UN (2011)

³³ US State Department (2013)

³⁴ CEDAW (2004)

³⁵ UN (2012c)

³⁶ US State Department (2013)

³⁷ US State Department (2013)

³⁸ Central Intelligence Agency (2012)

³⁹ UNICEF (n.d.)

routinely registers men as the heads of households. This negatively affects women’s ability to obtain land in their own names. In addition, married women in Thailand face the additional restriction of needing their husband’s consent for some legal transactions; in theory, men must also obtain their spouse’s consent for some legal transaction, but in practice, this rarely happens, according to the 2004 CEDAW report.⁴⁰

Women and men also have equal **access to non-land assets**. Conjugal property is either managed jointly or by one spouse who has been given consent to do so by the other spouse. The UN Committee on the Elimination of Discrimination against Women (CEDAW) 2004 report states that if either spouse enters into any legal contract independently or without the consent of the other spouse, the latter may apply to a court to have the contract revoked.⁴¹

Women in Thailand appear to have the same legal **access to financial services**, including bank loans and other forms of credit.⁴² However, the Asia-Pacific Economic Cooperation (APEC) has reported that in practice, women face difficulties in accessing loans due to the lack of collateral and the stipulation that they must show the consent of the husband under the regulation of cooperatives for obtaining a loan. APEC also reports that application paperwork, including procuring supporting documents, is also as a major impediment for women applying for business loans.⁴³ In Thailand in 2011, 72.7% of men and 72.64% of women aged 15 years or older hold bank accounts at a formal financial institution.⁴⁴

5. Restricted civil liberties

There are no official legal restrictions on women’s freedom of movement and **access to public space**.⁴⁵ The exception to this is members of Thailand’s hill tribes, some of whom face restrictions on their ability to move to other areas.⁴⁶

Freedom of speech, assembly and association were restored under the 2007 constitution, and are generally respected.⁴⁷ According to Freedom House, there is a vibrant and outspoken NGO sector, including many groups working specifically on women’s rights issues.⁴⁸ The 2004 report to the UN Committee on the Elimination of Discrimination against Women (CEDAW) notes that women’s rights NGOs are active in providing material and legal support to victims of violence against women and advocating in this area: they campaign to raise awareness of trafficking and rehabilitate women and children who have been trafficked, advocating on behalf of home-workers in the textiles industry.⁴⁹

⁴⁰ CEDAW (2004)

⁴¹ CEDAW (2004), p.86.

⁴² CEDAW (2004), pp.77-78

⁴³ APEC (2013)

⁴⁴ World Bank (2011)

⁴⁵ CEDAW (2004), p.83.

⁴⁶ Freedom House (2013)

⁴⁷ Freedom House (2013)

⁴⁸ Freedom House (2013)

⁴⁹ CEDAW (2004), pp.24-25, 31, 68, 82

Women and men have the same right to vote and stand for election in Thailand.⁵⁰ There is no **quota** for women at the national or sub-national levels. As of November 2013, women held 79 out of 500 seats in Thailand's bicameral parliament and 9 women in ministerial position, compared to 91 men.⁵¹ However, the political representation at provincial, municipal, and village levels of government is several percentage points lower, and often in the low single-digits.⁵² According to the 2004 CEDAW report, women wishing to stand for office face considerable hurdles, not least in the form of discouragement from their families for entering a 'male domain', lack of access to patronage networks, and violence or the threat of violence.⁵³ Outside of politics, the World Economic Forum (WEF) reports that Thailand's female-to-male ratio of decision-makers (including senior officials, and managers) is 0.31.⁵⁴

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Thailand's **maternity leave** laws allow 90 days of leave: 45 days at 100% of pay, with the remainder at 50%. A woman's employer pays for the first 45 days, followed thereafter by the national system.⁵⁵ However, women working in the informal sector and as unpaid workers are excluded from taking advantage of these social benefits.⁵⁶

Since 1992, women have been able to pass Thai **citizenship** onto their children.⁵⁷ However, they are unable to confer citizenship on their non-national spouses in the same way as men.⁵⁸

⁵⁰ CEDAW (2004), p.34

⁵¹ IPU (2013)

⁵² CEDAW (2004), pp. 35-36

⁵³ CEDAW (2004), p.40

⁵⁴ World Economic Forum (2013)

⁵⁵ World Economic Forum (2013)

⁵⁶ Hoctor (2012), p.30.

⁵⁷ CEDAW (2004) p.33

⁵⁸ US State Department (2013)

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