

Thailand

1. Discrimination in the family

a) Overarching legal framework for marriage

Marriage in Thailand is governed by the Civil and Commercial Code of 1925, which regulates family and inheritance law for all citizens of Thailand. Single women and men have the same rights to enter into marriage, however, in the case of death or divorce of a husband, women are prohibited from remarrying until 310 days have passed (Thailand, 1925, Sec. 1453). No legal provisions of the Civil and Commercial Code prohibit harmful practices against widows (Thailand, 1925).

Marriage is consent-based, and the parties must declare their consent verbally or in writing in order to be married (Thailand, 1925, Sec. 1455). All marriages, including religious ones, must be entered in the marriage register in order to be valid (Thailand, 1925, Sec. 1457). Thailand does not regulate de-facto marriage.

b) Child marriage

The legal age of marriage in Thailand is 17 years for both women and men, under Section 1448 of the Civil and Commercial Code (Thailand, 1925). Under the age of 17, minors can be married if they obtain the consent of their parents, guardian or adopter (Thailand, 1925, Sec. 1436).

Cultural norms and practices that encourage early marriage continue to exist in Thailand, particularly in small villages, hill tribe people such as the Akha and Hmong, and Muslim communities (UNICEF, 2015). Among the hill tribes, early marriage and early pregnancy are seen as economically beneficial, since the children can help with farm work (UNICEF, 2015).

c) Household responsibilities

The Civil and Commercial Code does not explicitly assign head of household responsibility, but it does state that “husband and wife shall maintain and support each other, according to [their] ability and condition in life” (Thailand, 1925, Sec. 1461). The law does not require women to obey their husband, and their liberty to choose where to live is guaranteed by the Thai Constitution (Thailand, 2007, Art. 34). Women have equal rights to exercise parental authority and share rights and responsibilities with regard to their children (Thailand, 1925, Sec. 1564-1566).

In practice, men are frequently expected to be the decision-makers in the household, and traditional Thai stereotypes position men as leaders and women as followers (ADB, 2013).

d) Divorce

Men and women have the same rights to initiate divorce, as the Civil and Commercial Code states that divorce may only be effected by mutual consent (Thailand, 1925, Sec. 1514). Previously, only husbands could divorce their wives for adultery, but the Civil and Commercial Code has been amended to give both spouses equal rights when it comes to adultery (CEDAW, 2015).

Both spouses are expected to contribute to the maintenance of their children, and women and men have equal rights to guardianship following divorce (Thailand, 1925, Sec. 1522). However, divorce settlements that order the man to pay alimony are difficult to enforce, and male judges often give child custody to the father while in practice the woman ends up responsible for taking care of the child (CEDAW, 2015).

e) Inheritance

As per the Civil and Commercial Code, daughters and sons and female and male surviving spouses have equal rights to inherit land and non-land assets, and to make a will (Thailand, 1925, Sec. 1629). The code specifies an order of inheritance for different classes of statutory heirs, beginning with descendants, then parents, brothers and sisters, and grandparents (Thailand, 1925, Sec. 1629). Surviving spouses are entitled to the same share as the deceased's children (Thailand, 1925, Sec. 1635).

The Civil and Commercial Code takes precedent over customary, traditional and religious laws in matters of inheritance. However, it does not currently criminalise disinheritance or property grabbing (Thailand, 1925).

2. Restricted Physical integrity

a) Violence against women

Thailand does not currently have one overarching law addressing all forms of violence against women. Thailand takes part in the 2015 Regional Plan of Action on the Elimination of Violence against Women, which calls on ASEAN members to institutionalise violence against women policies, prevention and protection mechanisms, and a human rights-based approach (ASEAN, 2015).

Thailand's Eleventh National Economic and Social Development Plan (NESDP) (covering 2012-2016) states that "violence against women should be eradicated" (Thailand, 2012). Thailand monitors and evaluates the implementation of the NESDP, and allocated a budget for gender sensitization of medical personnel and law enforcement officers (Thailand, 2012; CEDAW, 2015). The NESDP does not, however, include guidelines for ministries involved with addressing violence against women.

Patriarchal norms and traditional attitudes remain deep-rooted in Thailand and continue to contribute to violence and against women both in the public and private spheres (U.S. Dept. of State, 2016; CEDAW, 2015; ASEAN, 2015).

b) Domestic violence

Domestic violence is criminalized by the Domestic Violence Victim Protection Act of 2007, and perpetrators are liable to imprisonment of up to six months or a fine up to THB 6 000 (Thailand, 2007b, Art. 4). The definition of domestic violence extends to current and former partners, and includes physical and psychological violence (Thailand, 2007b).

Sexual and economic violence are not specified in the definition, however they can fall under the law, as domestic violence is broadly defined as "any act done with the intention or in the manner likely to cause harm to the body, mind or health of a family member" and "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” (Thailand, 2007b, Art. 3).

The Domestic Violence Act enables government officials to make medical, social and psychological assistance available to survivors of domestic violence, and includes a range of remedial protection measures (Thailand, 2007b). To complement the Act, the Thai government has instituted several preventative measures including the establishment of shelters and half-way homes for children and families in crisis, One Stop Crisis Centres that provide physical and psychosocial health services to victims of sexual and domestic violence, and a 24-hour hotline (CEDAW, 2015). In the justice system, the Royal Thai Police have trained their officers on gender perspectives and the psychological nature of sexual violence victims, and certain courts have integrated women-friendly measures such as the provision of counselling services and the separation of victims and perpetrators (CEDAW, 2015).

The Act has been criticised for taking a family unity approach, emphasizing and promoting mediation, conflict resolution, and settlement and family reunification, which may put undue pressure on victims to compromise and lead to a low conviction rate of perpetrators (CEDAW, 2015; U.S. Dept. of State, 2016).

Domestic violence continues to be underreported and police are not always eager to pursue reports of domestic violence (U.S. Dept. of State, 2016).

c) Rape

Rape is criminalized by the Penal Code of 1965, and the subsequent Criminal Code Amendment Act of 2007, and defined as “sexual intercourse with a woman against her will (...) by doing any act of violence, by taking advantage of the woman being in the condition of inability to resist, or by causing the woman to mistake him for the other person” (Thailand, 1965, Sec. 276). The Amendment Act removed the provision allowing a husband to rape his wife (Thailand, 2007). The definition of rape is based on “sexual intercourse,” however it is no specified whether this requires penetration.

Perpetrators of rape are subject to imprisonment of four to twenty years, and a fine of THB 1 000 to 40 000 (Thailand, 1965, Sec. 276). The law provides for increased penalties if the rape results in grievous bodily harm or death, or if the perpetrator is acting from a position of control (Thailand, 1965, Sec. 277, 285). In the case of grievous bodily harm or death, offenders may be punished with life imprisonment or the death sentence (Thailand, 1965, Sec. 277, 285).

d) Sexual harassment

No law criminalises sexual harassment in all contexts. However, the Labour Protection Act of 2008 and the Penal Code include foresee legal protection in the workplace. The Labour Protection Act extends protection against sexual abuse, harassment or nuisance by superiors to cover all workers, both female and male, with penalties up to THB 20 000 baht (Thailand, 2008). The Penal Code assigns criminal penalties for more serious offenses, such as rape or indecency (Thailand, 1965). Beyond these provisions, the law does not specify protections against harassment in educational institutions, sporting establishments, public places or cyber harassment.

In practice, sexual harassment remains an issue in the Thai workplace, due largely to gender discrimination and unequal opportunities for career advancement (Wikigender, 2016). Women are verbally and physically abused in the workplace, may be pressured to trade sexual favours for career advancement opportunities, and face risks of violence when traveling between their home and workplace (Wikigender, 2016).

e) Female genital mutilation

No specific law prohibits the practice of female genital mutilation (FGM). NGOs report that FGM occurred in the South but there are no statistics available on its prevalence (U.S. Dept. of State, 2016).

f) Abortion

According to the Penal Code, abortion is legal only if carried out by a medical practitioner, when necessary to preserve a woman's physical health or when the pregnancy is the result of a criminal offense (Thailand, 1956, Sec. 305). The Penal Code does not specify a maximum number of weeks by which women can seek a legal abortion (Thailand, 1965).

More

Human trafficking and commercial sex trade are significant problems in Thailand. The government passed the Anti-Trafficking in Persons Act in 2008, which criminalises "procuring, buying, selling, vending, bringing from, or sending to, detaining or confining, harbouring or receiving any person (...)" and establishes an Anti-Trafficking in Persons Committee (Thailand, 2008b).

Despite these efforts, Thailand remains a popular source, destination and transit country for men, women, and children subjected to forced labour and sex trafficking (U.S. Dept. of State, 2017). Corruption may undermine anti-trafficking efforts, as some government officials allegedly take bribes and profit from the sexual exploitation of women and children and the extortion of migrant workers, and foreign workers are often afraid to cooperate with authorities due to limited legal protections (U.N. ACT, 2017; U.S. Dept. of State, 2017).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

As per Articles 33 and 41 of the Constitution, and Section 1336 of the Civil and Commercial Code, men and women have the same rights to own, use and make decisions regarding land and non-land assets (Thailand, 1925; Thailand, 2007).

Following divorce, the Civil and Commercial Code stipulates that commonly held property (*Sin Somros*) is to be divided equally between man and woman (Thailand, 1925, Sec. 1533). During the marriage, each spouse manages his or her own individual property (*Sin Suan Tua*) (Thailand, 1925, Sec. 1473). In administering common marital property, either the spouses are joint managers or one spouse has to obtain consent from the other (Thailand, 1925, Sec. 1476).

The law provides for joint land titling and co-ownership of property, both for married and unmarried couples (Thailand, 1925, Sec. 1356). The Civil and Commercial Code grants women and men equal right to inheritance, and traditionally the youngest daughter inherits most of the property (FAO, 2017). However, in rural areas communities continue to make decisions based on customary law, developing communal rules of allocating resources, making decisions and dealing with disputes in a manner that may be to the disadvantage of women's access to land, property and inheritance (FAO, 2017).

b) Secure access to formal financial resources

Women, married and unmarried, have the same rights as men to open a bank account, obtain credit and access formal financial services (World Bank, 2016). The government has taken several measures to ensure equal access between women and men to loans and credit. It has, for instance, established the National Village and Urban Community Fund which extends loans to villages and urban communities and provides vocational training (CEDAW, 2015). The committee members of the fund comprise equal numbers of women and men (CEDAW, 2015).

c) Workplace rights

Thailand has ratified ILO's Equal Remuneration Convention of 1951, and is in the process of ratifying the Discrimination (Employment and Occupation) Convention of 1981, which will enter into effect in June 2018 (ILO, 2017).

The Constitution specifically calls on the State to "protect child and women labour" (Thailand, 2007, Art. 84). The Labour Protection Act of 2008 mandates non-discrimination on the basis of employment (Thailand, 2008). The Labour Protection Act does not, however, specifically cover non-discrimination within different aspects of employment such as recruitment, promotions or termination (Thailand, 2008). Article 84 of the Constitution guarantees equal distribution of wages and benefits for equal work, and Article 43 guarantees the right to freely choose a profession or engage in an enterprise for all Thai citizens (Thailand, 2007).

To monitor gender discrimination in employment, Thailand passed the Gender Equality Act in 2015. The Act establishes the "*WorLorPor*" Committee responsible for receiving complaints, investigating instances of gender discrimination, and ensuring the injured party is fairly compensated (Thailand, 2015). The Act has been criticized for not being in compliance with CEDAW, for lacking provisions to promote and protect gender equality and for failing to clearly mention sexual harassment (ILO, 2014). There are also concerns that the committees it establishes will be heavily male-dominated and lack sufficient gender expertise (ILO, 2014).

As per the Labour Protection Act, Thai women are eligible for 45 days of paid maternity leave, of which half is paid by the state and half by the employer (Thailand, 2008, Art. 41). They are also eligible for 45 additional days of unpaid leave (Thailand, 2008, Art. 41). Employers are prohibited from terminating female employees because of their pregnancy, but are not specifically prohibited from asking pregnancy-related questions during a job interview (Thailand, 2008, Art. 43). The law does not mandate paid paternity leave.

4. Restricted Civil liberties

a) Citizenship rights

Nationality rights are governed by the Nationality Act of 1965, and its 2009 amendment, as well as the 2007 Constitution. Men and women have equal rights to change and retain their nationality (Thailand, 1965, Sec. 7, 13). However, women do not have the same right to confer nationality to their spouses. For men who marry non-Thai nationals, their wives have the right to choose their nationality. For women who marry non-Thai nationals, their husbands do not have this right and can acquire Thai nationality only by officially requesting a change (Thailand, 1965, Sec. 11). Thailand has tried to remedy this in the 2009 amendment by lowering the requirements for husbands to apply for nationality (Thailand, 2009, Sec. 11).

There is no evidence of laws, customs or practices that discriminate against these nationality laws, nor of initiatives by the government to promote awareness around nationality legislation.

Women and men have the same rights to confer nationality to their children (Thailand, 1965, Sec. 7). As per the Civil and Commercial Code, both men and women can register the birth of their children (Thailand, 1925, Sec. 1546). Late birth registration is available up to 15 years of age (UNESCO, 2008). The Ministry of Public Health has developed a database to monitor birth delivery and teen pregnancies (CEDAW, 2015).

Women and men have the same rights to apply for passports and identity cards, regardless of their marital status (World Bank, 2016). The Constitution grants all citizens the liberty of travelling, including outside of the country (Thailand, 2007). There is no evidence of customary, religious or traditional practices that discriminate against the rights of women to obtain their own passports or secure travel documents for their children.

b) Voting

Article 22 of the Constitution grants all citizens the right to vote in elections (Thailand, 2007). The government has reported that women use their right to vote even more so than men do, in both local and national elections (CEDAW, 2015). As such, the government does not carry out measures to ensure women understand their right to vote.

c) Political voice

As per Article 65 of the Constitution, men and women have the same rights to hold public and political office in the executive, judiciary and legislative branches (Thailand, 2007). Legal quotas do not exist at the national level, nor at the local level (Quota Project, 2017). Thailand interprets temporary special measures imposed by the state as unjust discrimination, citing Article 30(4) of its constitution (CEDAW, 2015). The government does, however, provide incentives to encourage women's political participation, including training for female political candidates, public education campaigns, and pushing for quotas within political parties (CEDAW, 2015).

Cultural barriers to women's political participation continue to persist: women who run for office at the local level run into patriarchal norms that expect them to stay at home, and their advancement is complicated by election-rigging techniques, corruption and patron-client relationships, where

locally elected leaders buy votes to act as clients to government officials and as patrons to villagers (UN Women, 2013).

d) Access to justice

Women and men, regardless of their marital status, have the same rights to access justice, including the right to sue and be sued, and their testimonies hold equal evidentiary weight as guaranteed by Article 40 of the Constitution (Thailand, 2007). The Constitution contains a special provision on protecting the particular interests of female victims of sexual violence in court, stating: “children, youth, females, the handicapped and permanently infirm shall be suitably protected during criminal procedure in case of sexual violence” (Thailand, 2007, Art. 40(6)).

When suing or providing testimony in court, women face several barriers, particularly regarding domestic or sexual violence cases (ICJ, 2012). Law enforcement officers, prosecutors and members of judiciary are not always aware of procedural guarantees intended to protect the rights of victims, including the right to avoid confrontation with the perpetrator, and the right to be interrogated by a female officer (ICJ, 2012).

The Gender Equality Act of 2015 establishes the “Gender Promotion” or “SorTorPor” Committee responsible for establishing policies and action plans, monitoring compliance to the act, issuing policy recommendations to the Cabinet and establishing guidelines for compensation to victims of gender discrimination (Thailand, 2015, Sec. 13). The Committee is furthermore responsible for promoting public awareness around gender equality, and encouraging data collection, studies, statistics and research (Thailand, 2015, Sec. 13).

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