

# 2020 CEDAW



Progress

# REPORT CARD

## Women Human Rights Defenders

**WHRDs reporting on Thailand's compliance with the 2017 Concluding Observations of the Committee on the Convention to Eliminate all forms of Discrimination Against Women (CEDAW).**

# THAI REPORT CARD

<b>CONSTITUTION &amp; LEGAL FRAMEWORK</b>  <b>D-</b>	<b>ACCESS TO JUSTICE &amp; REMEDY</b>  <b>F</b>	<b>NATIONAL HUMAN RIGHTS COMMISSION</b>  <b>F</b>
<b>WOMEN, PEACE &amp; SECURITY</b>  <b>F</b>	<b>WOMEN HUMAN RIGHTS DEFENDERS</b>  <b>F</b>	<b>RURAL WOMEN</b>  <b>F</b>
<b>EXPLOITATION OF PROSTITUTION</b>  <b>D-</b>	<b>POVERTY</b>  <b>F</b>	<b>OVERALL</b>  Thailand has taken no known action, harmful action or very limited action in response to CEDAW Committee's 2017 recommendations. Will need significant improvement by the next CEDAW review scheduled for 2021

# INTRODUCTION

“The CEDAW Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official language(s) of the State party, to the relevant State institutions at all levels (national, regional, local), in particular to the Government, the ministries, Parliament and the judiciary, to enable their full implementation”

**NO KNOWN  
PROGRESS**

## WHAT IS CEDAW?

The *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) provides for important protections for women and girls in international human rights law. CEDAW recognizes that it is not enough to guarantee that women and men be treated identically. Instead, state signatories must take appropriate action to eliminate discrimination against women and support substantive equality.

Thailand's compliance with the *Convention* was last assessed in 2017, and the UN Committee on the Elimination of Discrimination against Women (the “CEDAW Committee”) made significant recommendations for Thailand, which are legally binding.

## BACKGROUND

In 2017 Protection International facilitated community WHRDs inclusion in the Thai women's delegation presenting to the CEDAW Committee. The delegation represented eleven sectors of women. Now almost three years on and fast approaching the next review, it is timely for WHRDs to reflect and create a progress report on Thailand's compliance with the recommendations made.

The goal of this report card is to make visible to the situation of women and WHRDs in respect to government policy and treatment of women. The report card is part of a larger body of creative work serving as a tool to elicit and enhance communication with authorities. It will also serve to increase awareness about CEDAW and Thailand, especially in view of the fact Thailand has yet to comply with the Recommendation on Dissemination (*see column insert*)

We have rated progress in key areas of concern identified by the WHRD we work with from the CEDAW Committee's 2017 Concluding Observations for Thailand

# GRADING

This Report Card focuses on July 2017 and December 2019. We used the following scale to assign grades to Thailand's progress in each area:

<b>A</b>	Fulfilment of CEDAW obligations and satisfaction of the recommendations of the CEDAW Committee.
<b>B</b>	Considerable action towards fulfilling CEDAW obligations and Committee recommendations
<b>C</b>	Some action taken. Needs improvement.
<b>D</b>	Very limited action. Needs significant improvement.
<b>F</b>	No known action taken or harmful actions taken.

The grades are given as a measure of recent progress towards meeting CEDAW standards, not as a measure of the overall situation of women's human rights in Thailand.

# CONSTITUTION & LEGAL FRAMEWORK

## WHAT DID THE CEDAW COMMITTEE SAY IN 2017?

The prohibition of gender-based discrimination in the Thai Constitution and the Gender Equality Act do not apply in women in Southern Border Provinces, where special emergency laws continue to be applied. The Committee also expressed serious concerns that Section 17(2) of the Gender Equality Act allows for discrimination to be acceptable on grounds of religious principles and national security.

Recommendations:

- (a) Revise Section 17(2) of the Gender Equality Act
- (b) Ensure that all women and girls who live in areas which are subject to emergency laws are effectively protected from discrimination both in law and in practice,

## VIEW FROM THE GROUND

Five years after the passing of the Gender Equality Act 2015 very few people know it exists or how it can be used. The term 'gender' is commonly understood as referring to LGBTQI issues, not related to heterosexual non-transgender women. A handful of transgender women have been able to petition the Committee on "Unfair Gender Discrimination" regarding discrimination in Educational Institutions. The processes remain complicated and excluding women from the Southern Border Provinces from protection from gender-based discrimination has continued under the Emergency Decree. The Gender Equality Act Article 17 (2) remains in place. Women who do sex work, indigenous women, asylum seeker and refugee women all risk being denied protections under the Article on grounds of national security or religious principles.

## ACTION TAKEN

The Committee to Promote Gender Equality (CPGE) has now established various subcommittees: for Policies, Measures and Plans; for Educational Development and Research; for Legal Matters; and for Public Communications. This infrastructure has been built in an effort to expedite the work of the "Consideration of Unfair Gender Discrimination Committee (CUGDC)."

**The Community WHRD Collective in Thailand has made recommendations for Constitutional reform to increase respect for women's rights.**

# D-

**Limited action.  
Needs significant  
improvement.**

*“Principles in the Constitution must support the creation of laws to uphold the rights of women from all sectors”*

*“The Constitution must require the State to recognize that work in the home has great social and economic value. Caring work in the home must be awarded a living wage provided for in cash or land”*

**Community WHRD  
Collective in  
Thailand (excerpt)**

# JUSTICE & REMEDIES

## WHAT DID THE CEDAW COMMITTEE SAY IN 2017?

The Committee remains concerned about the persistence of multiple barriers to rural women, indigenous women, women belonging to ethnic and religious minority groups, and women with disabilities. Such barriers include:

- (a) Stigma
- (b) Limited legal literacy and access to information on remedies that are available;
- (c) Lack of gender sensitivity in the justice system, including negative attitudes of law enforcement officials
- (d) Corruption

Recommendations:

- (a) Simplify the procedure to access the Justice Fund
- (b) Eliminate the stigma and enhance women's legal literacy;
- (c) Disseminate information, particularly in rural and remote areas, about the legal remedies available
- (d) Strengthen gender responsiveness and gender sensitivity of the justice system
- (e) Strengthen measures to combat corruption
- (f) Ensure that religious and customary justice systems harmonize their norms, procedures and practices

## VIEW FROM THE GROUND

The process for accessing the Justice Fund remains complex and appears arbitrary. Only 16% of applications from community WHRDs to the Justice Fund were approved. The Justice Fund and other remedies remain largely unknown and we don't know of any legal literacy education provided for women yet.

Women remain reluctant to report violence. Indigenous, migrant and Muslim women from the Southern Border Provinces are especially reluctant to report violent men in their family or communities when there have been credible reports of authorities being involved in maltreatment, torture, forced disappearances and extrajudicial killings of indigenous, migrant and Muslim men. There is also fear of retribution for reporting 'influential' people and agencies.

Disabled women report that authorities do not take reports from disabled women seriously. It is especially difficult when those seeking justice or remedy have an intellectual impairment or communication problems.

Citing the criminalization of prostitution, women who do sex work are denied access to justice and remedies regardless of other factors e.g. victim of the crime of trafficking

Women from the Southern Border Provinces tell us that ordinary families generally have no access to remedy. Those who do receive some redress are given a once-only lump sum rather than ongoing support provided to civil servants or those holding a government position. Islamic Committees who make decisions regarding Muslim women on marriage and divorce are not always in line with International standards.

# F

**No known action taken or harmful actions taken.**

***"None of the six recommendations from the CEDAW Committee have been addressed and the barriers to access to the Justice Fund have become worse."***  
**Community WHRD**

***"Don't even ask me about access to remedy, which is even harder to access than justice! The current Disabled Person Act has no penalties at all so is ineffective"***  
**Disabled WHRD**

# NATIONAL HUMAN RIGHTS COMMISSION

## WHAT DID THE CEDAW COMMITTEE SAY IN 2017?

The Committee notes with concern the lack of a clear, transparent and participatory process for selecting and appointing the members of the National Human Rights Commission of Thailand, which led the accreditation committee of the Global Alliance of National Human Rights Institutions (GANHRI) to downgrade it to “B” status in November 2015.

### Recommendations:

Implement the recommendations made by GANHRI in its report of November 2015

## VIEW FROM THE GROUND

The NHRC retains a B rating. The 2017 Organic Act of the National Human Rights Commission was enacted despite GANHRI’s concerns that it does not comply with the Paris Principles. Of special concern are the regulation on the rules and procedures for Commissioners to conduct examination of human rights violations. GANHRI also recommended that the provisions in Section 22 of the Act which provides a mandate for the President of the Supreme Court and the President of the Supreme Administrative Court to appoint a temporary Commissioner are unnecessary and should be removed. The concerns were not acted upon.

In 2018 the National Legislative Assembly appointed two retired bureaucrats as commissioners over all other candidates with solid backgrounds in rights advocacy. In July 2019, two prominent Commissioners, Ms Tuenjai Deetes and Ms Angkhana Neelapaijit, resigned from the National Human Rights Commission saying “the working environment was not conducive for them to perform effectively” The Chair of the NHRC invoked Section 22 and replacement Commissioners were appointed by the President of the Supreme Court and the President of the Supreme Administrative Court. On January 27 2020 the Senate appointed the two new Commissioners; rejecting two others, one who was a woman from the Southern Border Provinces.

“We were all proud when a week after resigning Ms Angkhana Neelapaijit was awarded the Ramon Magsaysay Award for her human rights work.”

# F

**No known action taken or harmful actions taken.**

*“For many years the NHRC was the institution many ordinary people could rely on to help defend the rights of our communities. Now it feels as if another door to justice and redress has closed”*  
**COMMUNITY WHRD**

*The regulations on investigating and reporting under the 2017 Organic Act means the NHRC is charged with defending the government instead of defending human rights.”*  
**COMMUNITY WHRD**

# WOMEN PEACE & SECURITY

## WHAT DID THE CEDAW COMMITTEE SAY IN 2017?

The Committee remains concerned for women in the Southern Border Provinces, especially those who have become widows and heads of households as a result of male family members being arrested, disappeared or killed, and who face stigma and difficulties in earning a living and supporting their families. They noted reports of DNA collection under coercive conditions and the exclusion of women from meaningful participation in the peace process, and the slow progress

### Recommendations:

- (a) Adopt temporary special measures targeting Muslim women in the Southern Border Provinces including by providing sufficient financial and social support;
- (b) Increase its efforts to end the conflict and ensure that the military, law enforcement officials and non-State armed groups abide by international human rights law,
- (c) Ensure access to effective remedies and justice,
- (d) Immediately discontinue the practice of DNA collection and provide effective remedies
- (e) Adopt Security Council resolution 1325 (2000) on women and peace and security
- (f) Fully involve women at all stages of the post-conflict reconstruction process in line with the Security Council's resolution s. .

### VIEW FROM THE GROUND

All women regardless of religion, in the Southern Border Provinces are impacted by the ongoing violence of the conflict. Muslim women carry an extra burden of greater interference by the State and inequality between men and women, including access to rights such as education, employment, labor, and health care.

There have been various promises made about support for widows and women head of family, but nothing has reached women in this situation. Any funds provided are usually accessed by men with status such as the Village Headmen. Some educational scholarships for children have been created but they remain difficult to access and it is a lengthy process.

Random DNA collecting continues. The state should ensure DNA information is secure and have stringent measures enforced to stop abuses. .

# F

**No known action taken or harmful actions taken.**

*"I have heard that the government provides social and financial assistance for the families of those killed, but I don't know if it is true. I met the wife of a man who died from a violent incident. The government arranged to provide compensation on the condition the woman would not remarry until she receives it"*

**Southern Community WHRD**



Fear and restrictions have increased rather than decreased since 2017. WHRDs in the Southern Border Provinces regularly report the heavy surveillance and monitoring of their movements and frequent visits by authorities. Any human rights work undertaken in the Southern Provinces is prone to judicial harassment and State intimidation regardless of the status of the women, religion or the context of the work. For example Ms Chalita Banthuwong a well-known Thai academic who spoke on need for Constitutional reform was charged by the Military with sedition. (Article 116)

Currently 10,000 heavily armed soldiers monitor 188 villages. Women live under stringent counterinsurgency legislations including the 1914 Martial Law, the 2005 Emergency Decree, and the 2008 Internal Security Act. In November 2019 the Internal Security Operations Command, the military's political coordination body was granted increased powers to impose curfews in nine districts from Dec. 1, 2019, until Nov. 30, 2020. Other measures allowed them under Article 18 of the act include restricting people from entering or leaving premises; closing roads and restricting the use of vehicles; and restricting the use of electronic and other devices or equipment that could harm people or public property.

Thailand has not adopted Security Council resolution 1325 (2000). Overall the language and practices used in the peace process effectively precludes participation for women, especially women who have been denied formal education which is true for many Muslim women.

## **ACTION TAKEN**

Unknown

***“Government officials often conduct searches regardless of the time, even late at night. They claim to have legal right to search to coerce villagers to submit to consent to DNA collection. Officials will not ask for permission to search but rather they use intimidation tactics. Most villagers consent to the search out of fear, especially believing refusal will bring more troops into search.”***  
**Southern Community WHRD**

# WOMEN HUMAN RIGHTS DEFENDERS

# WHRDs

## WHAT DID THE CEDAW COMMITTEE SAY IN 2017?

The Committee expressed serious concern that women human rights defenders have increasingly become targets of lawsuits, harassment, violence and intimidation by authorities and business enterprises due to their human rights work.

### Recommendations

- (a) Adopt and implement, without delay, effective measures for the protection of women human rights defenders to enable them to freely undertake their important work including by improving the effectiveness of the Witness Protection Office within the Ministry of Justice;
- (b) Effectively investigate, prosecute and adequately punish all cases of harassment, violence and intimidation against women human rights defenders, and provide effective remedies to victims.

## VIEW FROM THE GROUND

Judicial harassment, violence and intimidation against women human rights defenders has increased. A further 221 WHRDs have faced law suits and charges since the 2017 CEDAW Committee review with a total of over 400 WHRDs charged. Many of these are SLAPP lawsuits against community WHRDs, the majority who are urban poor women facing eviction followed by those defending land and natural resources.

Online sexual threats and harassment of WHRDs is increasing and seems not to be taken seriously by authorities. One pro-democracy WHRD who spoke against the death penalty was threatened online with rape. NHRC Commissioner Ms Angkanar was also harassed online. Official complaints were made to the Division of Cyber Crime but there was no obvious follow up. Some people believe that the threats come from ISOC's Information Operations Division, further increasing the fear.

WHRD seeking answers and justice for family members killed or disappeared have met with obstruction and intimidation. Not one of the scores of cases of extra judicial killing, assassination or enforced disappearances has been settled in the period since the CEDAW review in 2017.

## ACTION TAKEN

Unknown

# F

No known action taken or harmful actions taken.

# RURAL WOMEN

## WHAT DID THE CEDAW COMMITTEE SAY IN 2017?

The Committee remains concerned that rural women, including indigenous women and women from ethnic and religious minorities, continue to be disproportionately affected by poverty and limited economic opportunities, Rural women continue to lack access to basic social services & justice; are not represented in decision-making bodies; & face restrictions to their right to land and natural resources,

### RECOMMENDATIONS:

- (a) Expand programmes aimed at facilitating women's access to education, employment and health care, including through the adoption of temporary special measures;
- (b) Eliminate all barriers to rural women's participation in policy enabling rural women to act and be visible as stakeholders, decision makers and beneficiaries;
- (c) Ensure effective consultations with women from affected communities and secure the free, prior and informed consent
- (d) Ensure that rural women are included in the national roadmap
- (e) Ratify Indigenous and Tribal Peoples Convention, 1989 (No.169) ILO

## VIEW FROM THE GROUND

Rural women report their situation has not improved since 2017. There have been no known temporary special measures implemented and there has not been a significant investment in programmes for the advancement of rural women. For example in the 2019 National Budget 17% was allocated for education, 10.4% for health and just 0.4.% for environmental protections while 11.5% of the total budget was allocated for defense plus other national security mechanisms. Paid employment remains illegal for tens of thousands refugee women in border areas. Indigenous women who lack documentation are prevented from travelling and doing waged work.

Rural WHRDs and communities protesting lack of consultation and absence of "free, prior and informed consent" to land seizures and natural resource extraction face intimidation and judicial harassment. Of the 500 cases filed for "forest encroachment," only 10 are against large business owners while the rest have targeted small-scale farmers, many of whom are women. At the same time as landless farmers are being evicted large corporations and SEZ have been granted 6,243 Rai (about 1,000 hectares) of forest conservation land.

The term Indigenous is not a legal entity in Thai law and there are no concrete moves towards ratifying the Indigenous and Tribal Peoples Convention, 1989 (No.169) ILO. The 2018 National Parks Act ignores customary practices and goes against the accepted wisdom of indigenous communities being the best caretakers of forests,

## ACTION TAKEN

Unknown

# EXPLOITATION OF PROSTITUTION

## WHAT DID THE CEDAW COMMITTEE SAY IN 2017?

The Committee is concerned that women in prostitution are criminalized under the Suppression and Prevention of Prostitution Act of 1996. It also notes with concern that women working in the entertainment sector are subjected to humiliating treatment following violent police raids, and targeted in entrapment operations by police officers. The Committee is further concerned at reports of official complicity including large-scale extortion by corrupt police officers. It also notes that entertainment place workers do not benefit, from protection of labour laws.

### Recommendations:

- (a) Review the Suppression and Prevention of Prostitution Act to decriminalize women in prostitution;
- (b) Address the root causes of prostitution
- (c) Investigate and punish individuals who exploit women in prostitution, including government officials;
- (d) Immediately end the practice of violent raids, entrapment operations and extortion,
- (e) Provide assistance, for women and girls exploited in prostitution and for those wishing to leave prostitution;
- (f) Ensure the full application of labour laws and social benefits in all entertainment places.

## VIEW FROM THE GROUND

Women who do sex work remain criminalized, Since 2017 approximately 40,000 women have been convicted as criminals under the Suppression and Prevention of Prostitution Act of 1996, (police report 23,634 arrests in 2018 alone). This number includes the arrest of 105 women in an armed raid on Victoria Secret Massage Parlor 2018, despite the Committee's clear recommendation. The Ministry of Police has since clarified the limited scope of undercover operations but NGO's are encouraged to perform entrapment operations in their stead. These activities have left girls in situations of known exploitation for periods of up to three months while the NGO complete their operation.

Workers and employers have not reported any activities aimed at reducing extortion from corrupt authorities. Working conditions in the Entertainment Industry remain in serious conflict with the National Labor legal framework. Migrant women sex workers defending human rights have been deported and banned from returning to Thailand for 100 years, Those identified as victims of trafficking are deported after lengthy detention with no financial support.

## ACTION TAKEN

The Prostitution Act has been under review since 2018 by the Ministry of Social Development and Human Security. There has been virtually no opportunity for full participation of women in the sex industry or their representative organization. This is especially concerning if the Ministry is drafting a new law that to date has not been made available to sex workers or other members of the Public.

# D-

Very limited action.  
Needs significant  
improvement.

*"The CEDAW Committee's recommendation to remove the criminal law is echoed by sex workers, many UN agencies and human rights experts. It is alarming to be told by senior members of the Thai government that "we don't have to do what CEDAW recommends"*  
**Sex Worker WHRD**

*"The CEDAW Committee recommendations are a good beginning for women who do sex work to begin organizing to respect for basic human rights as women and as workers"*  
**Sex Worker WHRD**

# POVERTY

## WHAT DID THE CEDAW COMMITTEE SAY IN 2017?

Many of the Committee Concluding Comments raise concerns about Thailand's need to address poverty as a root cause of discrimination against women and various serious issues such as high incarceration rates, exploitation including human trafficking, as well as access to health, education and shelter.

## VIEW FROM THE GROUND

The 2017 Constitution frames alleviation of poverty as a charity issue rather than a human right and responsibility of the government. The government introduced a Poor People's Registration for those living below the poverty. Rather than cash benefits are paid via Poor People's Card that can only be accessed at certain venues and restricted to certain items. The card is topped up and expires monthly with an amount equal to just one day's minimum wage i.e. 300 Baht. Welfare benefits for elderly disabled and child support for children under six years old remain inadequate being equal to just two days minimum wage per month i.e. 600 Baht per month.

In an environment of economic downturn women who carry the responsibility to provide for the family are struggling. Women are working for no wages and low wages in work that is insecure and largely unprotected. Refugee women are prohibited from doing any waged work, foraging and growing crops. Many indigenous women lack documentation to access waged work and those that do are compelled to leave the community to find work. Over 2000 factories closed in the second half of 2019 leaving many women unemployed. Street vendors, who are mostly women have been banned from selling food from their footpath stalls, Begging and sex work remain criminalized. Women with no qualifications and no capital remain in poverty.

Thousands of women and their families from urban poor communities are also facing forced eviction with no satisfactory alternative shelter provided.

Poverty also affects the movement. Community WHRDs work an average of 14 hours a day doing a triple shift or more. Most are mothers doing the unwaged caring work in the home and often on the land as well. They do the low-waged work in 'informal sectors for an average of six hours a day. Then they do the largely unwaged political and human rights work needed to defend their community.

## ABOUT PROTECTION INTERNATIONAL

*Our freedoms, our rights, our societies depend on people who take a stand in their defense. Human rights defenders take personal risks. In many parts of the world they are harassed, jailed, prosecuted, attacked and killed in impunity.*

*Protection international stands for the right to defend human rights, by protecting defenders we are protecting your rights too.*

*We aspire to a world in which fundamental human rights and fundamental freedoms are universally recognized and respected by all, and where everyone has the right to defend these rights and freedoms without fear of threats or attack.*

### ACKNOWLEDGEMENTS

*Protection International acknowledges this report is made possible through the experiences, insights and courage of the many Women Human Rights Defenders in Thailand*

*The project is supported by Canadian Fund for Local Initiatives (CFLI)*

*We are also grateful to West Coast LEAF BC Canada who graciously allowed us to use their Report Card as a template the original designed by Nadene Rehnby of Hands On Publications.*

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