

HUMAN
RIGHTS
WATCH

SEPTEMBER 21, 2015

Thailand Gender Equality Act

Gender Equality Act

B.E. 2558 (2015)

H.M. KING BHUMIBOL ADULYADEJ

Given on the 8th day of March B.E. 2558 (2015)

Being the 70th Year of the Present Reign.

By royal command of His Majesty King Bhumibol Adulyadej it is hereby proclaimed that:

Whereas there should be the law on gender equality.

IT IS HEREBY ENACTED by the King with the advice and consent of the National Legislative Assembly as follows:

Section 1: This Act shall be called the “Gender Equality Act B.E. 2558”.

Section 2: This Act shall come into force one hundred and eighty days after its publication in the Government Gazette.

Section 3: In this Act:

“Unfair gender discrimination” means any act or omission of the act which causes division, discrimination or limitation of any right and benefit either directly or indirectly without justification due to the fact that the person is male or female or of a different appearance from his/her own sex by birth.

“Fund” means the fund to promote gender equality.

“Department” means the Department of Women’s Affairs and Family Development.

“Competent Officer” means the person appointed by the minister for the execution of this Act.

“Director-General” means the Director-General of Department of Women’s Affairs and Family Development.

“Minister” means the Minister who is in charge of the execution of this Act.

Section 4. The Minister of Social Development and Human Security shall be in charge of the execution of this Act and shall have the power to appoint competent officers and issue regulations or notifications in accordance with this Act.

The regulations or notifications specified in paragraph one shall come into force after being publicized in the Government Gazette.

Chapter 1

Gender Equality Promotion Committee.

Section 5. There shall be the “Gender Equality Promotion Committee” or “SorTorPor Committee” in brief, comprising of:

1. Prime Minister as the Chair person,

2. Minister of Social Development and Human Security as Vice

Chair person,

3. Eleven ex officio members, namely, Permanent Secretary of the Prime Minister's Office, Permanent Secretary of Ministry of Defense, Permanent Secretary of Ministry of Finance, Permanent Secretary of Ministry of Foreign Affairs, Permanent Secretary of Ministry of Social Development and Human Security, Permanent Secretary of Ministry of Interior, Permanent Secretary of Ministry of Justice, Permanent Secretary of Ministry of Labour, Permanent Secretary of Ministry of Culture, Permanent Secretary of Ministry of Education and Permanent Secretary of Ministry of Public Health.
4. Nine expert members appointed by the Cabinet, who are representatives of women's organizations and organizations working on the rights of those of gender diversity, of which six persons must possess the expertise and at least five years of experiences in working in the fields of gender equality, and 3 experts in the field of legislation, human rights, social science or psychology.

The Director-General shall serve as a member and secretary of the Committee and has the power to appoint not more than two officials in the Department to be assistant secretaries.

Section 6. The expert members shall possess the qualifications with no prohibited characteristics as follows:

1. being Thai national by birth,
2. being not below thirty five years of age,
3. not being a bankrupt, disable or quasi-disable person,
4. not being dismissed or discharged from government agency
or state enterprise due to disciplinary action,
5. not being subject to imprisonment by a final court decision except
for carelessness or petty offence,
6. never being subject to the decision adopted by the Committee on Consideration of Unfair Gender Discrimination (WorLorPor.) for committing gender discrimination act,

7. never being subject to the court decision or the court order to have assets confiscated by the State due to unusual wealth or unusual increase of wealth,
8. never having committed any sexual abuse or sexual harassment,
9. not being a member of the House of Representatives, the Senate, a

political officer, a local council member, a local administrator, a member or an executive of a political party, a political party advisor or a political party officer.

Section 7. The expert members shall serve a three - year term of office.

Upon completion of the term as specified in Paragraph 1, if there is no appointment of the new expert member, the expert member who vacates office shall continue working until being replaced by a new appointed expert member.

An expert member who vacates office at the end of the term may be reappointed but shall serve not more than two consecutive terms.

Section 8. In addition to vacating office at the end of the term, an expert member shall vacate office upon

1. death
2. resignation
3. dismissal by Cabinet resolution due to inability, dishonesty and malpractices
4. no longer working for or representing women organizations or

organizations working on gender diversity's rights as specified in Section 5 (4)

5. lacking qualification or possessing certain prohibited characteristics as specified in Section 6.

Section 9. In case an expert member vacates office before the end of the term, a replacement shall be made. However, the replacement may not be necessary if the remaining duration of the term is less than ninety days,. The appointed person for the replacement shall be in office only for the remaining duration of the term of the expert member who has vacated the office.

While there is no replacement, the SorTorPor Committee shall comprise only those remaining members.

Section 10. The SorTorPor Committee has the powers and duties as follows:

- (1) establishing out policies, measures and action plans for promotion of gender equality in all public and private entities in the central, regional and local areas,
- (2) providing the Cabinet with policy recommendations and proposals for improvement of laws, rules and regulations so as to be in accordance with the objectives of this Act,
- (3) establishing guidelines to provide assistance, compensation and remedy or relief to the victims of unfair gender discrimination,
- (4) examining and providing suggestions and advice relating to operations of officials and state agencies on the execution of this Act,
- (5) promoting studies, research and disseminate knowledge on how to prevent unfair gender discrimination,
- (6) encouraging data collection on sex differentiation and submit report to the Cabinet on operations in compliance with this Act at least once a year,
- (7) establishing regulations relating to the supervision and audit of the operations of the Committee on Consideration of Unfair Gender Discrimination and other relevant regulations in order to be in compliance with this Act,
- (8) doing any act as specified in the law to be the powers and duties of the SorTorPor Committee, or as assigned by the Cabinet.

The implementation of Paragraph 1 shall include the adoption of the following special measures to truly promote gender equality:

1. promoting accessibility to social, economic and political rights,
2. Improving social practices and cultural norms toward gender equality so as to eliminate bias based on sex inequality and violence due to gender which obstruct entitlement of various rights.

Section 11. There shall be SorTorPor meetings with a quorum of one half of committee members.

If the chair person is absent at any meeting or cannot perform the duty, the deputy chair person shall preside over the meeting. If both of them are absent or cannot perform their duties, a chair person shall be elected among attending members.

The final decision of the meeting shall be made by a majority vote, and one member shall have one vote. In case of a tie of votes, the chairperson shall have a casting vote.

Section 12. The SorTorPor Committee shall have the power to appoint a sub-committee to consider or carry out any assignment given by the Committee.

For the sub-committee meeting, provisions of Section 11 shall apply *mutatis mutandis*.

CHAPTER 2

Committee on Consideration of Unfair Gender Discrimination (WorLorPor)

And Department of Women's Affairs and Family Development

Section 13. There shall be the "Committee on Consideration of Unfair Gender Discrimination" with the acronym of "WorLorPor Committee" comprising of a chairperson and at least eight other committee members, but not more than ten. They are appointed by the Minister by selecting from qualified persons who are not expert members of the SorTorPor Committee, three of which must be knowledgeable with experience regarding the protection of those who are subject to unfair discrimination or experience in the promotion of gender equality. Also, there shall be one expert for each area such as human right, legislation, social science, psychology and labor affairs.

The Director-General shall have the power to appoint officials in the Department to be a secretary and an assistant secretary.

The selection of the Chairperson and Committee members as specified in paragraph one shall be in accordance with the criteria and procedure prescribed by the SorTorPor Committee.

Section 14. The WorLorPor Committee has the following powers and duties:

1. deciding the case where there are complaints whether there have been unfair gender discrimination as prescribed in Section 18,
2. establishing temporary measures for protection or mitigation as prescribed in Section 19,
3. issuing orders in accordance with Section 20,
4. submitting complaints to the Ombudsman in accordance with Section 21,
5. going any other acts as prescribed by laws as the powers and duties of the WorLorPor Committee.

Section 15. Sections 6, 7, 8, 9, 11 and 12 shall be enforced with the WorLorPor Committee *mutatis mutandis*.

Section 16. The Department shall be responsible for all administrative and academic functions of the SorTorPor Committee and the WorLorPor Committee and shall have the following powers and duties:

1. receiving complaints on gender discrimination and providing suggestions to the SorTorPor Committee and the WorLorPor Committee or other sub-committees, as the case may be,
2. supporting research and education to prevent unfair gender discrimination through knowledge dissemination,
3. coordinating with various organizations in both public and private sectors and civil societies to prevent unfair gender discrimination at both national and international levels,
4. preparing and submitting reports to the SorTorPor Committee on activities carried out under this Act to further propose to the Cabinet at least once a year,

5. performing other duties and activities prescribed by laws or as assigned by the Cabinet, the SorTorPor Committee and the WorLorPor Committee or other sub-committees.

CHAPTER 3

Inspection of Unfair Gender Discrimination

Section 17. The establishment of policy, rule, regulation, notification, project or procedures either by government agencies or private organizations or any individual with the characteristics of unfair gender discrimination shall not be permitted.

The implementation of paragraph one to eliminate the obstacles or to encourage the persons to exercise their rights and freedom as other persons, or for protection of the persons' safety and welfare, or for the compliance with religious principles, or for the national security shall not be deemed unfair gender discrimination.

Section 18. Any person thinking that he/she has suffered or likely to be suffered damage caused by acts considered to be unfair gender discrimination, which is not the case pending court decision, or the case with final court decision shall be entitled to submit a complaint to the WorLorPor Committee for consideration and making decision whether it is an unfair gender discrimination or not. The decision made by the WorLorPor Committee shall be final. The rules and procedures for submission of complaint, consideration and making decision shall be in accordance with the regulations prescribed by the Minister as recommended by the SorTorPor Committee.

The complaint submitted as specified in the first paragraph shall not eliminate the right of the complainant to take legal action to demand compensation from violation of the court of jurisdiction, while the court shall have the power to decide the form of compensation other

than in the form of money for the person subject to unfair gender discrimination. Also, if such unfair gender discrimination was caused intentionally or by serious negligence, the court may prescribe compensation as punishment to be given to the person subject to such unfair gender discrimination four times as much of the actual amount of damages.

In exercising the rights specified in the first or second paragraph, the discriminated persons may request relevant organizations to submit a complaint or to take legal action on their behalf.

The legal action as specified in the second paragraph shall be pursued within two years from the date on which the WorLorPor Committee has given a decision, or from the date on which the Administrative Court has issued a final decision, as the case may be.

Section 19. During the consideration process on an unfair gender discrimination, the WorLorPor Committee may issue a temporary measure before making decision to protect or mitigate suffering faced by the victim as deemed necessary and appropriately required.

Section 20. In the case where the decision has been made by the WorLorPor Committee that it is an unfair gender discrimination, the Committee shall have the power to issue following orders:

(1) ensuring that concerned government agencies and private organizations or concerned persons take any appropriate actions as required by their powers and duties to end and prevent unfair gender discrimination,

(2) ensuring that there be compensation and remedy provided to the injured party as prescribed in Chapter 4.

The orders issued by the WorLorPor Committee as specified in the first paragraph shall be supported by clear reasons and the Committee may prescribe certain conditions and observations deemed necessary to be submitted to the SorTorPor Committee in order for the government agencies, private organizations or concerned persons to take action regarding any matter as may be deemed appropriate.

Section 21. In the case where the WorLorPor Committee has decided that there has been unfair gender discrimination according to the legal provision which is contradictory to the constitution while there is no judgment given by the Constitutional Court, the WorLorPor

Committee shall then submit the case for consideration by the Ombudsman to further submit to the Constitutional Court to decide whether such legal provision is contradictory to the constitution.

Section 22. For the execution of this Act, the WorLorPor Committee members, the sub-committees or competent officers assigned by the WorLorPor Committee shall have the following powers and duties:

1. entering any residence or premise to collect relevant evidences by a search warrant,
2. sending an inquiry letter or summon persons to give statements or objects or documents to support the consideration.

The concerned persons shall provide convenience for providing facts, answers to the inquiry letter or sending objects or documents to the WorLorPor Committee members, sub-committees or competent officers concerned so as to be in compliance with paragraph one.

Section 23. The WorLorPor Committee members, sub-committees and competent officers executing this Act shall be competent officers according the Criminal Code.

In performing duties, the competent officers shall always present their ID Cards to concerned persons.

The ID Card for competent officers shall be in the format as announced by the Minister.

CHAPTER 4

Compensation and Remedy for Injured Parties

Section 24. Once the WorLorPor Committee has issued a decision that there has been unfair gender discrimination, the injured party shall be entitled to the compensation and remedy, and shall submit a request to the Department in the form specified in the announcement of the Director-General within one year from the receiving date of decision of the WorLorPor Committee.

The right to receive compensation and remedy as specified in paragraph one shall be non-transferable right and shall not be inherited.

Section 25. In the case the injured party is a minor, a quasi-incompetent or incompetent person or in the condition with inability to submit a request for compensation and remedy, the parents, the guardian, the caregiver, the spouse, the or any other persons, as the case may be, shall submit the above-mentioned request on behalf of the injured party, provided that it must be done according to the rules and procedures announced by the Director-General.

Section 26. The compensation and remedy for the injured party shall be provided in cash or kind as follows:

1. compensation for loss of income during the period of inability to work as usual,
2. compensation for loss of commercial opportunity which can be

calculated in term of money,

3. compensation for expenses on medical care including physical and mental rehabilitation,
4. compensation and remedy in other forms or characteristics.

The rules, procedures and payment as compensation and remedy specified in paragraph one shall be in accordance with the regulations set out by the SorTorPor Committee.

Section 27. The receipt of compensation and remedy in accordance with Section 26 shall not be deemed a termination of the right entitled to by the injured party to file a lawsuit to demand for damages according to the count of violation against the court jurisdiction, provided that Section 18, paragraph two and paragraph three shall be enforced, *mutatis mutandis*.

CHAPTER 5

Gender Equality Promotion Fund

Section 28. There shall be an establishment of the “Gender Equality Promotion Fund” in the Department to be spent on gender equality promotion as prescribed in this Act.

Section 29. The Fund shall compose of:

1. government subsidy allocated from the annual budget;

2. financial support from agencies relevant to promotion of gender equality;
3. donation in the form of money or assets;
4. fines from penalty against violators of this Act;
5. benefits earned from the Fund, and
6. other incomes.

Money and assets gained according to paragraph one shall be directly transferred to the Fund, not remitted as state revenue.

Section 30. the Fund shall be spent according to the objectives as follows:

1. for activities or businesses relating to the promotion of gender equality,
2. for preventing unfair gender discrimination,
3. for assisting, compensating and as remedy, or for suffering mitigation of persons subject to unfair gender discrimination as specified in Section 26,
4. for overseeing and providing advice, consultation relating to the execution of this Act by competent officers and government agencies,
5. for promoting studies and researches and dissemination of knowledge relating to the prevention of unfair gender discrimination,
6. for contacting and coordinating with individuals, agencies or both public and private organizations as well as the civil sector,
7. for other activities as deemed appropriate by the SorTorPor Committee.

Section 31. There shall be the Fund Executive Committee comprising of the Director-General as the Chairman, one representative each from the Bureau of the Budget, the Comptroller-General's Department and four expert members appointed by the SorTorPor Committee, all of which must be representatives of the private sector, whereby three of them must possess knowledge and experience relating to the promotion of gender equality and one with the knowledge and experience relating to the management of the Fund.

The Deputy Director-General shall be assigned by the Director-General to serve as a Committee member and secretary.

The Fund Executive Committee may appoint not more than two officials of the Departmental to serve as assistant secretaries.

Section 32. The provisions of Sections 6, 7, 8, 9, 11 and 12 shall be enforced upon the Fund Executive Committee *mutatis mutandis*.

Section 33. The Fund Executive Committee shall have the following powers and duties:

1. managing the Fund, receiving payments and paying expenses as well as maintaining the funds and raising funds, investing, arranging for benefits and managing the Fund in accordance with regulations prescribed by the SorTorPor Committee as approved by the Ministry of Finance,
2. considering and granting approval to pay compensation and remedy to injured parties subject to victims of unfair gender discrimination according to the regulations prescribed by the SorTorPor Committee,
3. submitting reports on financial status and management of the Fund to the SorTorPor Committee.

CHAPTER 6

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Section 34. Any person violating the orders of the WorLorPor Committee as prescribed in Section 20 (1) shall be subject to imprisonment for not more than six months or a fine of not more than twenty thousand baht, or both an imprisonment and a fine.

Section 35. Any person violating Section 22, paragraph two shall be subject to imprisonment of not more than three months or a fine of not more than ten thousand baht, or both an imprisonment and a fine.

Section 36. For all offences according to this Act, if the following competent officers have considered that the alleged persons should not be subject to imprisonment or prosecution, they shall have the power to settle the case as follows:

1. the Director-General or the person authorized by the Director-General, for offences committed in Bangkok Metropolitan areas,
2. the provincial governors or the persons authorized by the provincial governors, for offences committed in other provinces.

In case there is an investigation, if a person is found guilty by the investigator for committing offence against this Act, and such person agrees to the settlement, the investigator shall submit the case to the authorized persons as specified in (1) or (2), as the case may be, within seven days from the agreed date for settlement.

Once the alleged person has paid the settled fine within thirty days, the case shall be dismissed according to the provisions of the Criminal Procedure Code.

Countersigned by:

General Prayuth Chan-ocha

Prime Minister

- The reason for promulgating this Act has been the fact that there is no clear measure to prevent unfair gender discrimination at present, resulting in no protection and no appropriate fairness for those who are subject to unfair gender discrimination. It is, therefore, deemed appropriate to enact the law to provide protective measures for those subject to unfair gender discrimination. This shall also further prevent the incursion of unfair gender discrimination, which is in compliance with the international human rights principles according to the international obligations for which Thailand has been a party. This Act is therefore promulgated.

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