Information of Department of Empowerment of Persons with Disabilities

the Ministry of Social Development and Human Security

As of June 04, 2017

1. *Does your country have laws, policies or guidelines on access to justice, at any level of government, which ensure persons with disabilities, particularly women and children with disabilities* 
   1. *To participate in judicial and administrative proceedings on an equal basis with others in their role as witness, juror, complainant, defendant or other, including through the provision of procedural and age-appropriate accommodations (please identify and share the text of those provisions);*
   2. *To have individual legal standing in all administrative and judicial procedures, including the right to be heard as part of their right to fair trial;*
   3. *To have access to effective remedies that are appropriately proportional to the right (s) infringed and which are tailored to their specific situation; and*
   4. *To have effective access to justice in the context of disasters, migration and asylum-seeking, conflict and post-conflict situations and transitional justice, and formal or informal systems of customary, indigenous and community justice, among others.*

The Government has taken several measures to ensure access to justice for people from all groups.

**The 3rd National Human Rights Plan for 2014-2018** sets forth a specific plan for judicial process. The plan aims to **enhance people’s knowledge on relevant laws, their rights, and the assistance they are entitled to receive from the Government** in order to ensure people’s access to justice. The plan clearly defines “people” to include those from vulnerable groups such as older persons, **persons with disabilities,** and the underprivileged.

The promulgation of **the Justice Fund Act of 2015**, which will be effective in April 2016, will **render** **legal assistance to everyone, particularly the poor and the vulnerable**, such as the provision of free legal counselling and assistance in judicial proceedings.

Persons with disabilities are also entitled to **the provision of a hand interpreter or other assistive communication methods,** as prescribed in **Section 13 of the Criminal Procedure Code.**

Persons with disabilities are equal with others under the law and enjoy rights of access to justice. Section 55 of the Civil Procedure Code provides that “Any person, whose rights or duties under the civil law are involved in a dispute or must be exercised through the medium of a court, is entitled to submit his/her case to a civil court having territorial jurisdiction and competency over it in accordance with the provisions of the Civil Law and of this Code”.

In case a person with disability is incapacitated the law also provides legal safeguard to ensure the rights to justice of such person. Section 56 of the Civil Procedure Code paragraph one provides that “A claim may be submitted to a court or any other proceeding may be carried out by or on behalf of an incapacitated person only in accordance with the provisions of the Civil and Commercial Code governing capacity and of this Code. Where permission or consent is given under such provisions, it shall be in writing and filed with the Court to be attached to the file of the case.

**In criminal litigation, persons with disabilities are not treated differently. Person with disabilities, like normal persons, who are the victims of crime, shall be entitled to institute criminal prosecution in court by virtue of Section 28 of the Criminal Procedure Code. Furthermore, Section 34 of the Criminal Procedure Code provides that an order of non-prosecution does not prejudice the victim’s right to institute a prosecution by him or her. Section 13 paragraph two states that “**…Where the victim, accused, defendant or witness sustains speech disorder or hearing impairment or cannot express meaning and is not yet represented by any sign language interpreter, the inquirer, public prosecutor or court shall provide one for him or may organize other appropriate means of questioning, answering or meaning expression for him or her.”

The Persons with Disabilities Empowerment Act B.E. 2550 (2007) and its Amendment Vol. 2 B.E.2556 (2013) was enacted in replacement of the Act on Rehabilitation of Persons with Disabilities B.E. 2534 (1991) to materialize the promotion of the capacity or ability of person with disabilities to become better or sustaining their previous capacity or ability, the promotion and protection of their rights, support of their autonomy, human dignity and equality as others. The Act specifically guarantees the access to justice for persons with disabilities in section 20 (5). This section provides that persons with abilities shall be entitled to access and use public facilities including legal assistance and providing attorneys and lawyers to defend for them in accordance with the Rules prescribed by the National Commission on Promotion and Development of Life Quality of Persons with Disabilities.

Moreover, the Act produces administrative and judicial mechanism to strengthen equal treatment for persons with disabilities in Section 14 – 17 as follows:

Section 14

For the purpose of implementation of this Act, the Officers shall have authority and responsibility as follows:

1. Notify in writing to employers or owners of business to clarify the relevant facts or provide information about their operation, send their representative(s) to clarify or give statements, or submit documents or other evidence to support consideration and determination to be made by the officers.
2. Notify in writing to the parties involved to give statement or submit documents clarifying the facts or submit documents or other evidence to support consideration and determination to be made by the officers.

Section 15

Orientation of policies, rules, regulations, measures, projects or practice of public agencies, private entities or any other parties, wherein any and all discriminatory and unfair acts or treatment shall be prohibited.

The discriminatory and unfair acts or treatment toward persons with disabilities as stipulated in the first paragraph shall mean any acts/actions or omission even without direct discriminatory intention against persons with disabilities, but their result causes disadvantages or loss of the right entitled to such persons with disabilities, on the ground of his/her disabilities.

Any discrimination that may arise from or for reasons of science and knowledge, custom and tradition or public interests may be performed in a necessary and proper way to the circumstances on case-by-case basis, and shall not be deemed as the discriminatory and unfair acts mentioned in the first and second paragraphs. However, in all cases, it is provided such discriminator shall undertake the possible and necessary measures to remedy or protect the right or interests of persons with disabilities.

Section 16

Persons with disabilities who are or will be damaged from discriminatory and unfair treatments pursuant to Section 14, shall be entitled to request the National Commission on Promotion and Development of Life Quality of Persons with Disabilities to revoke or prohibit such treatments, thereby the order of the Commission shall be deemed as finalized.

Such request stipulated in the first paragraph shall not waive the right of the claimant to file civil litigation before the competent court for compensation. The court is empowered to determine other non-monetary compensation for the claimant who is under discriminatory and unfair treatments. In case such discrimination is committed with intention or gross negligent, the court may, in addition, grant the punitive compensation for the claimant not exceeding four times of the actual damages.

Criteria and proceedings of the request and the determination mentioned in the first paragraph shall be in accordance with the rules prescribed by the Commission.

Section 17

In exercise of the right pursuant to Section 16, persons with disabilities or their caregivers may ask their relevant representative organization to take action or legal proceeding on their behalf.

The litigation mentioned in Section 16 paragraph two, either undertaken by persons with disabilities or by their relevant representative organization, shall be exempt from the court fees.

Persons with disabilities are eligible to request for law assistance. **All complaints** will be **referred to** the Department of Empowerment of Persons with Disabilities and the Sub-Committee on the Elimination of All Forms of Discrimination against Persons with Disabilities for further actions

All cases have been investigated so that appropriate actions can be taken. Some of the cases were resolved through reconciliation among parties concerned. Some are further submitted to the Court for consideration. Eligible cases are entitled to due compensation and remedy.

Apart from this, persons with disabilities can also file complaints directly through various channels such as police stations, homes for Persons with Disabilities, local administrative offices, hospitals, Provincial Social Development and Human Security offices, disability services centers, Damrongdhama Center, the National Human Rights Commission of Thailand.

One Stop Crisis Center under the Ministry of Social Development and Human Security with 1300 Hotline also takes calls for urgent assistances or inquiries from persons with disabilities.

Moreover, Rights and liberties protection Department has main mission in protecting human rights for all people including disabilities. Roles ofthe Rights and liberties protection Department empowering the access to justice processes are, as follows:

1. Receiving complaints and law [counseling service](https://dict.longdo.com/search/Counseling%20Service), the Department has a main role in receiving complaints, as well as giving law advice without expenses and cooperating with involved departments. People can send complaints via various channels such as in person at the department, at 83 justice clinics or by post.

2. Rights and liberties protection Department hotline call 1111 press 77, the Department provides a [convenient](https://dict.longdo.com/search/convenient) method for people to protect rights and liberties; furthermore, the department assists people who were affected from justice process. The services are:

(1) Law [counseling service](https://dict.longdo.com/search/Counseling%20Service)

(2) Receiving complaints

(3) Requesting for financial compensation and expense of the defendant in a criminal case

(4) Requesting for subsidy from justice fund

(5) Protecting witness

(6) Advising on other social welfare to reduce an inequality in access to justice process

3. Providing interpreter in investigation process, the Department develops an interpreter standard in justice process by drafting Regulations of the Office of the Prime Minister regarding interpreter registration in justice process. The Department also provides sign language and lists of vocabulary for interpreter

4. Dispute resolution, dispute resolution resolves contradiction peacefully. People can access justice equally because there is no expense for lawyer; furthermore, it does not need a long court proceeding. The resolution is in law drafting process.

5. Taking care of the defendant’s right in criminal case investigation process. It is the right of the criminal case defendant to have a lawyer in accordance with Section 134/1 of The Criminal Procedure Code. The Department provides a lawyer for the defendant aged under 18 years old, for the case with death penalty, for the case of imprisonment without lawyer service during investigation. To support the statute mentioned, there are Ministry of Justice regulations on rules, process and conditions that inquiry officers must provide a lawyer for the criminal case defendant B.E.2549 as well as Ministry of Justice regulations on payment for lawyer provided by the government in criminal case B.E.2550

6. Witness Protection, in accordance with Criminal Case Witness Protection Act B.E. 2546, witness or people related to witness who are threatened can request the witness protection. In case of being a witness in criminal case involving security, drug, and money laundering law, national anti- corruption law, custom law, and the witness can be protected with special treatment such as relocation and name-surname alteration. In addition, subsidy can be provided to the witness.

7. Offering subsidy for victims to ensure the right of the victim in receiving Government assistance in case of affecting from other people’s crimes in which the victim does not involve, in accordance with Compensation, Replacement Cost and Expenses for Criminal Case Defendants Act B.E. 2559

8. Offering subsidy for criminal case defendants, compensation, replacement Cost and expenses for Criminal Case Defendants Act B.E. 2559 to ensure the right of defendants for receiving replacement cost and expenses in case the defendant is charged by prosecutor, imprisoned during court proceeding and final pronouncement as innocent, or the defendant’s action is not guilty. Apart from justice process actions, the Department also carries other important duties.

1. Do you have examples from your country on:
   1. how procedural and age-appropriate accommodations are provided and applied, including protocols or other guidelines;
   2. training programmes on the right of access to justice for persons with disabilities for judges, lawyers, prosecutors, police, social workers, language and sign language interpreters, legal aid centres, other judicial and administrative bodies intervening in judicial or quasi-judicial instances;
   3. education programmes on the rights of access to justice for persons with disabilities for law students as well as in schools of social work, sign language interpretation, forensic science, psychiatry and psychology, among other relevant faculties; and
   4. legal aid programmes, public and/or private, which include the right of access to justice for persons with disabilities in their practices, including the availability of support and liaison services for courts or other judicial or quasi-judicial instances.

In Thailand, special judicial proceedings have been provided for persons who have specific needs. Cases involving children and youth are tried in the Juvenile and Family Court with judges and personnel specializing in children’s rights. In addition, the Juvenile and Family Court Act was amended in 2010 with the objective to modernize Thai juvenile law, including the establishment of special criminal procedures that take into account the rights of the child, such as the understanding on the age and mental ability of the child and the emotional impact on children.

The Government has taken several measures to protect children’s rights including the protection of children who came into contact with criminal justice system. The Government played an active role in the development of the “UN Model Strategies and Practical Measures on the elimination of violence against children in the field of crime prevention and criminal justice” which helps ensure that children who came into contact within the justice system are treated in a child-sensitive and gender-specific approach and that their specific needs are taken into account. The resolution on this Model Strategies was adopted at the 69th Session of UN General Assembly

The Judicial Training Institute of the Office of the Judiciary provides training for judicial officers including judges. In general, the curricula for judge training programs in all levels contain topic of human rights but do not concentrate specifically on the right of access to justice for persons with disabilities. However, the treatments of person with disabilities as parties or witnesses in court proceedings are legally observed.

At the same time, The Administrative Court of Thailand provides facilities for person with disabilities. In case, they go to the Administrative Court of Thailand. The facilities for person with disabilities consists of parking, slope front and back paths, wheel chairs, security guards, accessible toilets and elevators for person with disabilities. There is audio document about the Administrative Court of Thailand. The document was published for persons with visual disabilities to other related departments. The Administrative Court of Thailand is going to make a dictionary for sign language for persons with hearing or communication disabilities; moreover, the Administrative Court of Thailand provides security guards to navigate persons with disabilities to a consulting room or complaint receivers (If persons with disabilities need any consulting or send prosecution to the court)

Persons with disabilities who need to consult, there are many channels :(1) persons with disabilities can consult at the Central Administrative Court, the Supreme Administrative Court or the Region Administrative Court. (2) Hotline “1355” (3) Getting consulting via a written letter Moreover, persons with disabilities can study information regarding the Administrative Court, administrative lawsuit, the writing of indictment; appeal; and other requests at the Administrative Court website www. Admincourt.go.th

1. *Does your country have laws, policies and strategies to ensure the participation of persons with disabilities on an equal basis with others in the judiciary or other judicial or quasi-judicial instances, including in their roles as judges, witnesses, jurors, lawyers, or any other active party to judicial or quasi-judicial procedures?*

Please refer to the answer for the first question.

1. *Does your country monitor and collect disaggregated data with respect to access to judicial or quasi-judicial procedures concerning:* 
   1. *The participation of persons with disabilities in judicial or quasi-judicial procedures, including the number of complaints submitted, nature of complaints and outcomes;*
   2. *Persons with disabilities obtaining remedies and the nature of those remedies, whether they are adequate, effective, prompt and appropriate, responding to their specific situation;*
   3. *Persons with disabilities being convicted, the nature of their sentence, and whether they benefitted from safeguards of the right to fair trial on an equal basis with others; and*
   4. *The opening and conduct of impartial and independent investigations of human rights violations of persons with disabilities, particularly those relating to the right to life, liberty and security of the person, freedom from violence, abuse and exploitation, and freedom from torture or cruel, inhuman or degrading treatment or punishment.*

Legal assistances are also provided to persons with disabilities by the Ministry of Justice. From October 2008 – September 2015 (7 years), 431 cases have been rendered with legal assistances. These cases comprise of 239 cases that received legal advice, 28 cases received financial assistances from the Justice Fund, 163 cases received financial compensation, and 1 under the witness protection program

The Office of the Judiciary does not collect data on persons with disabilities because the court handles its proceedings involving persons with disabilities on case-by-case basis and observes legal requirement strictly when assistance of persons with disabilities is needed to ensure their right to be heard in court.

People can prosecute to the Administrative Court easily such as making prosecution. There are name, address of plaintiff and defendant, action that causes prosecution, and prosecutor’s request. Persons with disabilities can process by themselves; however, persons with disabilities can give authority to their representatives under Section 45 act on establishment of Administrative Court (B.E.2542). If the litigant or other people involved attending court investigation do not understand Thai language; are with hearing and communication disabilities; or are illiterate, interpreters can be provided. For sending an indictment, persons with disabilities can send it by themselves or by registered post to The Administrative Court where they live, or where the case occurred. The court procedure applied is “inquisitorial procedure” which means that The Administrative Court has a crucial role in finding fact as needed, apart from what the litigant proposes to the court.

The National Office of Police monthly collects data on accessibility of Justice of persons with disabilities including women and children by the reports of police at the stations to the National Office of Police; however, this collected data is disaggregated into persons with disabilities and children.