

**DISCRIMINATION AGAINST MARGINALISED AND EXCLUDED COMMUNITIES****LGBTI INDIVIDUALS, WOMEN, PEOPLE LIVING WITH HIV, PERSONS WITH DISABILITIES, ELDERLY PERSONS AND OTHER MINORITIES****CONTEXT**

Discrimination violates basic human rights and has wider social and economic consequences. By stifling opportunity and not using all available human resources, discrimination hampers economic progress and accentuates social tension and inequality. It makes good business sense to promote equal opportunity, remuneration and treatment in employment, and it benefits businesses to draw from a pool of diverse talent. In addition, non-discrimination helps alleviate poverty, and works towards achieving the goal of decent work for all. In the context of business and human rights, discrimination manifests itself in a number of ways. For workers, discrimination can emerge through hiring practices, in which particular groups such as people living with HIV or transgender persons are excluded from being considered for employment; and also while at work, through unequal pay, with women being paid less, and differences in access to benefits, working conditions, or consideration for promotion based on a person's identity. In addition, discrimination can also be experienced from outside a business, as a consumer or member of the local community, with only certain groups being able to access services, or with individuals experiencing discrimination while accessing a business service.

In Thailand, despite recent legislative progress on equal protection, discrimination continues unabated on all grounds, and in various stages and aspects of employment. Sex and gender discrimination is widespread, often affecting women and LGBTI persons. Job advertisements discriminate against applicants based on sex and age, and admission rules of professional institutions discriminate against persons with disabilities and transgender persons. Discrimination on the grounds of race, ethnicity, colour, religion, and social origin affect a range of individuals including indigenous minorities who often lack legal status and land rights, and the rural poor who have migrated to cities for work. Individuals engaged in agriculture, home-based work, subcontracted work, deep-sea fishing, domestic work, petty trade and street vending are either not covered or only partially covered by labour and social security laws. Children and youth of indigenous and ethnic minorities without Thai citizenship, the stateless, and migrant children still have limited education opportunities, despite policies to expand access to all. Undeterred by the promulgation of new law and policy to promote the right of persons with disabilities (PWDs) and persons living with HIV and AIDs (PLHIVs), stigma and discrimination continues both at work and in their daily lives. For example, since Thailand has no law prohibiting discrimination in employment on the ground of HIV status, PLHIVs are denied employment, face HIV screening for job applications, involuntary HIV screening, violation of confidentiality at work, loss of advancement opportunities and job termination. LGBTI persons also face stigma and discrimination due to real or perceived HIV status.

**LEGAL AND POLICY FRAMEWORK: Existing Laws and Policies, Gaps and Legal Challenges****International Obligations****Discrimination**

The International Covenant on Civil and Political Rights enshrines the rights of all people to non-discrimination and equality. The International Covenant on Economic, Social and Cultural Rights sets forth the principle of non-discrimination, guaranteeing the rights in the convention must be able to be exercised without discrimination of any kind. Articles 6 and 7 set out rights with regards to employment, including the rights to work, and the right to just and favourable conditions of work. The ILO Declaration on the Fundamental Principles and Rights at Work commits member States to act and recognises four key areas of rights and principles in employment. One of these is the elimination of discrimination in employment and occupation.

**Protection of Women**

The Convention on the Elimination of All Forms of Discrimination Against Women explicitly acknowledges that extensive discrimination against women continues to exist. It emphasizes that such discrimination violates the principles of equality of rights and respect for human dignity. As defined in article 1, discrimination is understood as any distinction, exclusion or restriction made in the political, economic, social, cultural, civil or any other field. The Convention gives positive affirmation to the principle of equality by requiring States parties to take all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing to them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men. Article 11 deals explicitly with employment and work, setting out women's rights to equal rights in all aspects of this field, while prohibiting discrimination on the grounds of marriage or maternity with regards to employment.

**Protection of Indigenous Peoples**

The Declaration on the Rights of Indigenous Peoples establishes a universal framework of minimum standards for the survival, dignity, well-being and rights of the world's indigenous peoples. The Declaration addresses both individual and collective



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rights; cultural rights and identity; rights to education, health, employment, language, and others. It outlaws discrimination against indigenous peoples and promotes their full and effective participation in all matters that concern them. It also ensures their right to remain distinct and to pursue their own priorities in economic, social and cultural development.

## National Legislations

### Constitutional Framework

The 2017 Thai Constitution sets out that the ‘human dignity, rights, liberties and equality of the people shall be protected.’ Despite this provision of the Constitution, the law in Thailand provides minimal protection to marginalised and excluded communities. There are specific legislations only with respect to women, LGBTI individuals and persons with disabilities, as discussed hereinafter. In addition, the Labour Protection Act provides protection against discrimination in employment, but only with respect to women.

### Protection of Women

The Gender Equality Act B.E. 2558 (2015) specifically prohibits any means of discrimination on the basis of gender identity or expression, setting out criminal penalties for discrimination. The Act also provides grievance mechanisms for those who believe they have suffered damages caused by unfair gender discrimination in the form of submitting complaints to the WorLorPor Committee, which can offer compensation. It also establishes a ‘Gender Equality Promotion Fund’ to be spent on the promotion of gender equality and preventing unfair gender discrimination.

### Protection of Persons with Disabilities

Persons with Disabilities Empowerment Act B.E. 2550 (2007) stipulates under Section 15, 16 and 17 that discriminatory practices against persons with disabilities shall be prohibited. The Act also sets out requirements that employers hire persons with disabilities in proportion to the entire number of the workforce. If they do not do so, they must make financial contributions to the ‘Fund for Promotion and Development of Life Quality of Disabled Persons’.

### Protection against discrimination in employment

The Labour Protection Act B.E. 2541 (1998) ensures fundamental protections for labour are in place. The Act imposes duties on employers not to carry out rights violations during the course of work against all workers, regardless of nationality and legal status. It prohibits discrimination based on gender in terms of employment, unless equal treatment is not possible due to the nature of that particular work. The Act also restricts the type of work that an employer can ask women employees to do. The 2008 amendment to the act prohibits harassing of all employees, not just women, provided the subject of harassment has a lower position or ranking in the workplace. However, it does not cover harassment among employees of the same ranking.

## CHALLENGES & IMPACTS

### Challenge 1: Current anti-discrimination legislation is insufficient

#### Impact

There exists a significant gap within the current legislative framework in Thailand on protections against discrimination. Concrete initiatives to tackle discrimination and offer remedy at present are only offered to LGBTI individuals, women, and people living with disabilities, and even then, there are exclusions, with respect to Section 17 of the Gender Equality Act. This exempts discriminatory behaviour in the public and private sector with regard to freedom, security and protection of others, or in accordance with religious obligations or national security. Indigenous persons, people living with HIV and ethnic minorities all currently have no formal protection under Thai law.

#### Case

The Hotel Call Centre at the Grand Mirage Pattaya rejected an anonymous transgender woman outright when applying for a job. She had applied for a job with two friends, one male and one female, and had dressed and conducted herself appropriately. After her interview, she was called to another room and told explicitly that the business does not recruit transgender women. This is a direct violation of article 15 of the Gender Equality Act.

### Challenge 2: People living with HIV (PLHIVs) continue to face discrimination with regard to education and training, seeking employment and while employed

#### Impact

In Thailand, there were estimated to be 440,000 PLHIVs in 2015, but even with these large numbers they still face discrimination when seeking education, employment, or while employed. Despite high profile HIV education campaigns,



PLHIVs still experience discrimination in the workplace. The country committed to have at least 50% of companies establishing HIV/AIDS friendly policies by 2003. Despite this, many employers only made an informal commitment, with few turning this commitment into company policy. Businesses fear that employing PLHIVs will incur greater operational costs and have concerns for the safety of customers and other employees and, as such, are apprehensive about complying with laws against workplace discrimination. Interviews conducted with HR professionals of companies listed on the Stock Exchange of Thailand showed that 48.3% of HR managers would not hire PLHIVs. Health screenings are utilised in many job applications, resulting in PLHIVs being denied employment when it is discovered they are HIV positive. The use of health screenings also affects employees, as demonstrated by reports of HIV positive workers being fired after annual health checks. The stigma surrounding HIV also extends beyond employment, with PLHIVs being denied loans from the Bank for Agriculture and Agricultural Cooperatives, only because of their HIV positive status.

#### Case

A 29-year-old technical engineering graduate was forced to resign after undergoing a mandatory blood test that revealed he was HIV positive. The young man managed to get a new job at a firm that has no policy of screening applicants, before hiring them or doing annual check-ups. Potential discrimination has stopped him telling anybody about his HIV status.

### Challenge 3: People living with HIV (PLHIVs) face discrimination in accessing social services

#### Impact

In Thailand with a culture that does not speak about sex openly, a movement has emerged to create awareness, leading to an increased access to treatment and an understanding of prevention methods where before none existed. However, the support by governments and uninformed sectors of society is still rather limited. PLHIVs continue to face discrimination both systematically and socially, suggesting that society has not yet confronted its fear. Despite Thailand's Universal Care System (UCS), access to health services for PLHIVs is restricted by discrimination, a lack of emphasis on prevention, and inequitably distributed resources in public hospitals, particularly at the district and community levels. The Thai State is not taking all steps necessary to ensure the highest standard of physical and mental health of PLHIVs. Both the articles and general comments of the International Covenant on Economic, Social, and Cultural Rights establish that the Thai State is responsible for taking measures to ensure the highest attainable quality of health facilities, goods, and services, to establish and maintain prevention and education programs for behaviour related health concerns and to redress de facto discrimination against PLHIVs. At present, many hospitals lack the proper human and technical capital to provide their patients with treatment and testing guaranteed under UCS policy. HIV/AIDS education programs in schools and training programs for medical providers receive inadequate funding and support from state agencies, ultimately leading to discrimination and ignorance at all levels of the community.

#### Case

After a car accident, a hospital performed routine blood test on Law Sookdee, which found him as HIV positive. At that time, he was working for a company in Bangkok, and after he returned to work his company told him about the results of his blood test. In 1999, his company gave him 100,000THB and asked him to quit. When his wife passed away in 2002, Law and his five-year-old son moved to Kaw province where he opened up a shop to repair motorcycles. Soon he faced judgment from community members, and Law became reclusive. Many of his friends in the community died due to HIV/AIDS. At that time, TNP+, a volunteer group raised awareness and educated community members about HIV/AIDS. Encouraged by his father, Law began attending TNP+ meetings, which gave him access to counselling and eight years after his diagnosis, he began receiving CD4 tests and Anti-Retroviral Drugs. Today, Law lives in a farm in Kaw province, works as the vice-president of the Isaan network, and is married to Sasi, a former TNP+ group leader.

### Challenge 4: People with disabilities (PWDs) are discriminated against in education and training, in their ability to access employment and while employed

#### Impact

Although Thai domestic laws are quite progressive in guaranteeing the rights of PWDs, in reality there are problems with implementation, or lack thereof. The Constitution of Thailand and the Persons with Disabilities Empowerment Act (PDEA) 2007 under Section 15, 16 and 17 prohibits discriminatory practices against PWDs. Regardless, 75% of those with disabilities have been denied employment due to their disabilities. Specific policies have been instituted in order to remedy employment discrimination of those with disabilities. Section 33 of the PDEA stipulates that for any employer with over 100 employees, 1% of the workforce must be PWDs. Alternatively, they may comply with Section 35 of the Ministerial Regulations to Specify Numbers of Employees with Disabilities that Employees, Entrepreneurs and government Agencies, where they can in substitution, grant concessions, arrange places for products or services of PWDs, employ PWDs under sub-contracts with



other agencies, provide trainings or any other supports for PWDs or caregivers. If they fail to comply with either Section 33 or 35, the employer is required to submit a levy to the Fund for Empowerment of Persons with Disabilities. These policies have not resulted in the successful elimination of employment discrimination for those with disabilities. PWDs are often exploited by employers who seek to appear to be complying with disability law for the benefit of tax deductions set out. Employers use PWDs names in order to appear to be hiring people with disabilities without actual employment. In addition to this, the option of paying a levy results in many employers opting to pay it instead of employing PWDs. This is particularly prevalent in the public sector.

#### Case

Only 18% of PWDs in Thailand are enrolled in educational institutions, with just 0.5% in higher education in 2007. Over 65% of PWDs are unemployed, and 75% of those with disabilities have been denied employment due to their disabilities. The situation is especially dire for women with disabilities. PWDs have few employment options besides stereotypical, low-paying jobs that lack security. They are still excluded from employment in the public service and many professions such as medicine, nursing, law and military service. In 2013, there were 30,769 persons with disabilities employed by the private sector. This accounts for about 46% of a total of 53,689 persons to be hired in accordance with the law. As for state agencies, 1,280 persons with disabilities are employed or given assistance out of 10,851 persons the law requires to be employed, accounting for only 9.5% of the quota.

### Challenge 5: Current law and policy to remedy employment discrimination for people with disabilities (PWDs) has failed

#### Impact

Under Article 5 of the Convention, the government has the obligation to prohibit all discrimination on the basis of disability and guarantee to PWDs equal and effective legal protection against discrimination on all grounds. However, Section 15 Paragraph 3 of PDEA offers exemptions for reasons of academic or traditional purposes, or for public interests. Providing exemptions offers an excuse for discriminatory behaviour and undermines the principle of non-discrimination protected. When cases of discrimination occur, PWDs have limited access to legal recourse. The Sub-Committee on Elimination of Discrimination against Persons with Disabilities and its related justice systems fail to provide justice for PWDs, and legal assistance is limited in rural areas. Thus, 90% of PWDs do not put forward discriminatory claims before government agencies because they did not believe in their effectiveness. In rural areas, a majority of PWDs have limited information regarding their rights and how to access legal remedies for discrimination.

#### Case

In 2012, ABC Donuts Thailand approached Thammasat University to hire students with disabilities on a part time basis with a salary of THB 600 per month. A study by students of Thammasat University uncovered that all students with disabilities were listed as full-time workers, with employment contracts indicating they were working full time, and receiving a salary of THB 9,000 a month with 6 days annual leave. ABC Donuts admitted that the names of the university students with disabilities were being used to avoid paying to the Fund for Empowerment of Persons with Disabilities while benefiting from full tax deductions. A claim was submitted to the Sub-Committee on Elimination of Discrimination against Persons with disabilities, and ABC Donuts Thailand agreed to pay a fine with interest totalling THB 8 million to the fund. Despite this, the underpaid salary of the employed university students with disabilities was not compensated.

### Challenge 6: Gender based discrimination in the workplace particularly sexual harassment, continues unabated

#### Impact

Although gender-based discrimination is illegal, it is still prevalent in women's working lives. This manifests in a number of ways. The CEDAW concluding observations on the combined sixth and seventh periodic reports of Thailand highlighted gender-based discrimination in many areas of employment, including recruitment, promotion and retirement age. A disparity between the retirement ages of men and women was identified, with many factories setting a retirement age of 55 for women and 60 for men. Although on the surface the Gender Equality Act seems like a positive step towards preventing gender-based discrimination, there are exemptions in the bill that limit its application and thus ability to protect LGBTI rights. Section 17 exempts discriminatory behaviour in public and private sector with regards to freedom, security and protection of others, or in accordance with religious obligations or national security. While there are protections under the Labour Protection Act, again, these are not universal, and issues such as sexual harassment are only criminalised when carried out by a more senior member of staff.

**Case**

A 20-year-old graduate began working as a secretary in Bangkok. She was the only female worker among eight men in the sales department. Her manager, a 45-year-old man, flirted with her often. She politely ignored his advances. The manager became angry with her rejection. As a result, she received a negative evaluation on her performance review at the end of her probationary period without explanation. She took her case up with the personnel manager, who sympathised with her but did nothing to help her. Instead, he advised her to take the case to the Deputy Managing Director of the company, who was her direct boss. Although he was unsympathetic to her concerns, his secretary advised her to take the case up with the secretary of the Managing Director, which she did. Finally, her issue was raised with the Managing Director, who transferred her to a new section. However, no further action was taken against the Manager.

**Challenge 7: Rampant sexual harassment in the workplace continues, without appropriate measures in place to remedy it****Impact**

CEDAW observations on the combined sixth and seventh periodic reports of Thailand noted the absence of legislation explicitly prohibiting sexual harassment in the workplace. The impact of this is reflected in the World Health Organisation report from 2007, which found physical or sexual harassment was present in 23-40% of workplaces in Thailand. This was particularly prevalent in the public sector, as indicated by a hotline centre reporting that 70% of complaints came from those working in the government. Women who face sexual harassment often face negative consequences when they attempt to report it, such as facing threats or intimidation to encourage withdrawal of the filing, leading some victims to quit their jobs as a result. Principle 3 of the UNGPs sets out the need for States to enforce laws that are aimed at or have the effect of requiring businesses to respect human rights. While the current legislative framework does offer some protections, it is by no means a panacea, and within these laws themselves significant exclusions exist making their value as a tool to protect human rights limited.

**Case**

A 23-year-old worker in a garment factory in Bangkok faced persistent flirting from her supervisor. Anytime she brought documents to his room for him to review or sign he would try to come near her and touch or stare at her inappropriately. This made her very uncomfortable, and she talked to her co-workers about it, with most of them having experienced the same thing. They advised her to stay away from him and try to avoid him as much as possible. She was unable to complain to the company supervisor because he was the one who was harassing her. During yearly staff performance evaluations, she was directly evaluated by her supervisor which was not standard procedure and she was the only one evaluated in this manner. Her supervisor downgraded her by 2 points. Her supervisor attempted to fire her and constantly pressured her to leave the job, while continuing to make inappropriate remarks. Ultimately, she was forced to resign from her job as a result of pressure and humiliation.

A 27-year-old woman working in a company's art department was sexually assaulted by her supervisor while on a business trip to Pattaya. The team rented only two rooms to stay in because they wanted to save their per diem. The woman stayed in a room with two male friends and the supervisor. One night while she was sleeping, she woke up to her supervisor forcing himself on her. She ran out of the room and stayed in the main lobby until late in the morning. Afterwards, her co-workers gave her strange looks as they saw her supervisor sleeping in her bed, which persisted when they returned from the trip. Rumours about her started to circulate. The woman felt very uncomfortable and confessed what had happened to a friend who had been on the trip. Her friend promised he would be her eye-witness if she brought the case to management. Yet, when the time came, he changed his mind, fearing that he might get in trouble. When her case reached management, nobody took interest in it treating the matter as trivial and questioning the validity of her claim. She also received a very poor performance evaluation from her supervisor. She continued to be treated unfairly by her supervisor by being denied requests for leave and not being offered new assignments. She requested to be transferred to another section as she was unable to bear the situation any longer.

**Challenge 8: The legal identity of LGBTI individuals is denied****Impact**

Due to the limited steps taken to ensure the upholding of the rights of LGBTI individuals in Thailand, the LGBTI community still lacks significant legal recognition and protection leading to economic, social and cultural barriers.

**Case**

In 2010, the gay-themed film 'Insect in the Backyard', realised under the direction of a transgender women, was banned by the Ministry of Thai Culture's National Film Board under Article 29 of the Film Act 2010. The board described the film as a





disruption of national order and public morals signalling that gay-themed films are taboo. The filmmaker appealed the decision which has been pending in the Constitutional Court for three years.

### Challenge 9: LGBTI Individuals face discrimination on the basis of their sexual orientation and gender identity

#### Impact

LGBTI individuals are not protected against widespread discrimination on the basis of sexual orientation or gender identity in employment, under both the Constitution and the Labour Protection Act 1998. Although Article 5.6 of the Thai Labour Standard provides that an establishment shall not engage in or support any discrimination in respect to employment, payment of wage and remuneration, providing welfare and opportunity for training and development, promotion, termination of employment or retirement due to personal attitude on gender or sexual orientation, it is not binding on companies and is only voluntarily certified by employers. Constant stigma and discrimination leaves the vast majority of transgender people unable to obtain and maintain adequate employment. Consequently, many of them have to work in low level jobs in the entertainment, beauty, hospitality and sex industries. Transwomen sex workers have continuously been subject to police abuse and exploitation. News reports on arrests of transgender sex workers are presented in a derogatory manner, fuelling prejudice and violence against the LGBTI community and sex workers. Victims themselves are at greater risk of self-stigmatisation and have limited career options.

#### Case

In 2015, a Thai transgender woman faced discrimination due to her gender identity at her workplace in an international organisation, where she had worked for 15 months. Thereafter, the woman was fired on unjustified claims of underperformance. The organisation had no policy in place to address and provide safe and friendly spaces for transgender individuals.

In May 2012, an undergraduate transgender woman student submitted an internship application to Suan Kularb Academy, an all-male academy in Bangkok. She was denied the internship at the Academy, with an explanation that 'the intern may complete the internship at other establishments according to appropriate characteristics of the intern.'

### RECOMMENDATIONS AND ACTION PLAN FOR THE STATE: PILLAR I AND PILLAR III

#### PILLAR I: STATE DUTY TO PROTECT

Priority Area 1	General Provisions to Protect against Discrimination		
Recommendations (Goal to be achieved)	Action	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Enact law to prevent discrimination in any form extending to all categories of marginalised and excluded communities and frame policy for its enactment.	A singular anti-discrimination legislation that accounts for all people, must be enacted. It should not just protect against discrimination, but also address violations and promote non-discrimination.	The National Legislative Assembly and The Ministry of Social Development and Human Security	The law should not exempt any category of persons that face discrimination due to marginalisation, exclusion or stigmatization (2 years)
Enact legislations that guarantees the right to access social services by all, without discrimination.	This legislation should extend access to health insurance as well regardless of gender, ethnicity, sex, age or any other determining feature.	The National Legislative Assembly, The Ministry of Social Development and Human Security	The provisions should be easily accessible and include the duty of States to ensure access of social services by people (3 year)
Priority Area 2	Protection of Women against Discrimination		
Recommendations (Goal to be achieved)	Action	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Enforce legislation by formulating policy on the protection of women from discrimination.	The policy should be formulated based on the provisions of the Gender Equality Act and aligned with concluding observations of the Committee on the	The Ministry of Social Development and Human Security, the	The policy enacted should help raise awareness on the Gender Equality Act and its provisions, promote women's rights and

	Elimination of Discrimination against Women (CEDAW). An example of aligned policy could be the revocation of the exemption in section 17, paragraph 2 of the Gender Equality Act.	Ministry of Labour and the National Committee on Gender Equality	eliminate discrimination against women (2 years)
Reform the judicial process on women's rights violations	This can be done by allocating budget to projects that promote women's and girl's access to justice, amongst other measures	The Ministry of Social Development and Human Security, the Ministry of Justice and the National Committee on Gender Equality	This should result in the effective promotion and protection of the rights of women and girls (2 years)
Organize training sessions to raise awareness and highlight the importance of women's participation in decision-making processes.	This must include decision making processes at all levels. Enabling, encouraging, and supportive conditions for such participation must be created.	The Ministry of Social Development and Human Security and the National Committee on Gender Equality	This recommendation should comply with the 2006 concluding observations of CEDAW to Thailand (3 years)

**Priority Area 3****Protection of Persons living with HIV/ AIDS (PLHIVs) against Discrimination**

<b>Recommendations (Goal to be achieved)</b>	<b>Action</b>	<b>Lead Agency/ Jurisdiction</b>	<b>Performance Indicators/ Timeline</b>
Eliminate law and policy forcing PLHIVs to undergo mandatory HIV testing.	Forced HIV testing must not be included particularly in the employment and recruitment process	The National Legislative Assembly, The Ministry of Social Development and Human Security	Enforcement mechanisms and penalties should be included with these provisions. (1 year)
Develop concrete guidelines for adoption of good practice on HIV/AIDS prevention and management.	It must provide guidelines directing the private sector to adopt good practice on HIV/AIDS prevention and management in the workplace.	The Ministry of Social Development and Human Security, and The Ministry of Health	The guideline should provide implementation measures and timelines (2 years)
Enact policy stipulating accessibility to health insurance by PLHIVs.	The policy must discuss health insurance for all, regardless of health status.	The Ministry of Social Development and Human Security, and The Ministry of Health	It should provide clear and effective provisions with safeguards. (1 year)
Develop guidelines for access to treatment for HIV/AIDS	The guidelines should clearly outline practices and authorities involved in providing access to treatment	The Ministry of Health	Ensure that all service providers adopt these guidelines on access to treatment (2 years)

**Priority Area 4****Protection of Elderly Persons against Discrimination**

<b>Recommendations (Goal to be achieved)</b>	<b>Action</b>	<b>Lead Agency/ Jurisdiction</b>	<b>Performance Indicators/ Timeline</b>
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Change the age of retirement for elderly persons	It must be extended from 60 to 65 years to ensure that elderly persons can work for longer.	The Ministry of Labour	It must provide elderly persons with greater accessibility to work opportunities. (1 year)
Provision of financial support for elderly persons	This must be provided particularly for those who wish to work freelance	The Ministry of Social Development and Human Security	This support should increase opportunities for employment they can access. (1 year)
<b>Priority Area 5</b>		<b>Protection of Persons with Disabilities (PWDs) against Discrimination</b>	
<b>Recommendations (Goal to be achieved)</b>	<b>Action</b>	<b>Lead Agency/ Jurisdiction</b>	<b>Performance Indicators/ Timeline</b>
Enact special measures on the legislation for persons with disabilities, with respect to employment.	Measures to provide them with greater access to freelance work must be added.	The Ministry of Social Development and Human Security	Safeguards and enforcement mechanisms should be provided (2 years)
<b>Priority Area 6</b>		<b>Protection of LGBTI Individuals against Discrimination</b>	
<b>Recommendations (Goal to be achieved)</b>	<b>Action</b>	<b>Lead Agency/ Jurisdiction</b>	<b>Performance Indicators/ Timeline</b>
Ensure efficient enforcement of the Gender Equality Act to address unfair gender discrimination.	This must include enforcement of the Act to address gender discrimination in the workplace and with regard to service delivery. Legal loopholes in the Gender Equality Act including in its content and processes must be addressed.	The Ministry of Social Development and Human Security and the Ministry of Labour	Delay in investigation by the Gender Equality Investigation Committee must be resolved. This process should include a final ruling that sets a precedent. (1 year)
Raise awareness on employment laws and practices of unfair gender discrimination and revise labour laws.	This must address the Gender Equality Act and other welfare laws. A consultation meeting should be organised once a year to monitor the situation. Government officials, the private sector, civil society and affected communities must be involved in the capacity building and consultation process.	The Ministry of Social Development and Human Security and the Ministry of Labour	The training must achieve national coverage, especially in remote regions and provinces (2 years)
<b>PILLAR III: ACCESS TO REMEDY</b>			
<b>Priority Area 1</b>		<b>General access to remedies and compensation</b>	
<b>Recommendations (Goal to be achieved)</b>	<b>Action</b>	<b>Lead Agency/ Jurisdiction</b>	<b>Performance Indicators/ Timeline</b>
Provide mechanism to remedy violations on the right to protect against discrimination	The mechanisms provided must be well publicized at the local level	The Ministry of Justice, the Ministry of Social Development and Human Security and the Ministry of Labour	Effective access must be guaranteed and built into the mechanism (2 years)
Use funds effectively for remedy of the violation of rights.	The remedial process and the provision of compensation should include participation from all stakeholders.	The Ministry of Social Development and Human Security and the Ministry of Justice	The grievance redressal mechanism and compensation must remedy real and adverse impacts of the violation. (2 years)



Priority Area 2		Access to remedies and compensation by PLHIVs	
Recommendations (Goal to be achieved)	Action	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Provide mechanisms of remedy for PLHIVs who have suffered the violation of their rights.	The mechanisms for remedy must operate particularly at the local level.	The Ministry of Social Development and Human Security and the Ministry of Justice	The mechanisms must be systematic and clear. (2 years)
Set up a committee for the protection of rights related to HIV/AIDS	These committees must be established at the Tambon, district and provincial levels, with a mandate to offer genuine remedy.	The Ministry of Social Development and Human Security	They must provide effective oversight (2 years)
Priority Area 3		Access to remedies and compensation by LGBTI Individuals	
Recommendations (Goal to be achieved)	Action	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Administer and make accessible the complaints process under the Gender Equality Act.	This mechanism must be utilized in partnership with all relevant stakeholders	The Ministry of Social Development and Human Security and the Ministry of Justice	Complaints must be processed in a specified timeframe, as provided by relevant Ministerial Regulation. (2 years)
Set up a remedy fund in accordance with the Gender Equality Act.	The remedy fund should provide for injured parties and it must be used appropriately.	The Ministry of Social Development and Human Security and the Ministry of Justice	It should meet the needs of the injured parties in an effective manner and within a specific timeframe. (2 years)
Document the situation of LGBTI employment.	The document must be published in a report that is available and accessible	The Ministry of Social Development and Human Security and the Ministry of Labour	The documentation must be updated on a yearly basis (1 year)

## RECOMMENDATIONS AND ACTION PLAN FOR BUSINESSES: PILLAR II AND PILLAR III

PILLAR II: CORPORATE RESPONSIBILITY TO RESPECT			
Priority Area 1		General Provisions to Protect against Discrimination	
Recommendations (Goal to be achieved)	Action	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Adopt policies and regulations that ensure respect for human rights by businesses.	It should include provisions that should be applied across all aspects of business operations, including protection against discrimination of anyone and on any grounds.	Businesses	These policies and regulations must include a procedure for enforcement and on access to remedies for violations (2 years)
Adopt and implement voluntary guidelines by Thai Ministries in business operations to improve the quality of life of workers	An example is the implementation of Thai Labour Standard 8001-2010 (TLS), an equivalent of the global labour standards SA 8000. It must be implemented along with independent audit partners.	Businesses	Adoption of such measures will lift long term competitiveness and sustainability of companies.
Actively address discriminatory practices as they occur.	This can be through effective HR practices, in which	Businesses	The significant and legitimate consequences of the



	discrimination in the workplace is dealt with swiftly and effectively, to stringent company policies in which discrimination in any form is not tolerated.		discriminatory practices should also be covered (3 year)
Promote the principles of equal opportunity and take affirmative action measures.	These policies should prevent discrimination in employment, recruitment, advertisements of employment, compensation, termination, upgrading, promotion, and other conditions of employment for an employee or job applicant on the bases of race, creed, colour, national origin, sex, sexual orientation and gender identity, age, and health status.	Businesses	In particular, they must ensure that PLHIVs, LGBTI individuals, PWDs and elderly persons will not face any kind of discrimination.
Formulate policy that guarantees the right to access social services by all, without discrimination.	This legislation should extend access to health insurance as well regardless of gender, ethnicity, sex, age or any other determining feature.	Businesses	The provisions should be easily accessible and include the duty of businesses to ensure access of social services by people
Extend access and use of services of businesses to marginalised and excluded communities.	This should remove any impediments to access and provide positive measures to promote access by these categories of individuals. This must particularly cover services of financial businesses and institutions	Businesses	This practice should adopt a human rights lens.
Conduct human rights due diligence and address situations and cases of discrimination	The patterns of discrimination must be determined through human rights due diligence. For example, it must be determined if discrimination is a company-wide issue, or if it is as a result few individuals.	Businesses	Continuous monitoring of the human rights situation and impacts within and caused by the business must be undertaken, and the report published.

**Priority Area 2****Protection of Persons living with HIV/AIDS (PLHIVs) against Discrimination**

Recommendations (Goal to be achieved)	Action	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
Prevent discrimination of PLHIVs in the workplace.	To ensure this, businesses should not impose compulsory HIV testing on prospective or current employees. Also, they should not terminate employment of PLHIVs based on health status	Businesses	Access to remedies should be provided in case of discrimination. (1 year)
Provide support to PLHIV employees.	This should be ensured particularly with respect to PLHIVs in need of treatment.		Access to social services including health benefits and health insurance must be provided (2 years)

**Priority Area 3****Protection of Elderly Persons against Discrimination**

Recommendations (Goal to be achieved)	Action	Lead Agency/ Jurisdiction	Performance Indicators/ Timeline
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Extend access and use of services of businesses to elderly persons.	This should remove any impediments to access and provide positive measures to promote access by the elderly.	Businesses	This practice should adopt a human rights lens (1 year)
<b>Priority Area 4</b>	<b>Protection of Persons with Disabilities (PWDs) against Discrimination</b>		
<b>Recommendations (Goal to be achieved)</b>	<b>Action</b>	<b>Lead Agency/ Jurisdiction</b>	<b>Performance Indicators/ Timeline</b>
Comply with current legislations governing the employment of persons with disabilities.	For this, businesses must hire disabled people instead of opting to pay contributions into the 'Fund for Promotion and Development of Life Quality of Disabled Persons'	Businesses	Other provisions of the Persons with Disabilities Empowerment Act must also be complied with (2 years)
Provide ability appropriate careers for PWDs	Ability should be determined through an assessment. Businesses should continue to provide professional development support as well.	Businesses	(2 years)
Ensure the presence of facilities needed to aid PWDs	All workplaces must have appropriate facilities to aid persons with differing abilities including documents in braille, ramps in the offices, to name a few	Businesses	(1 year)
<b>Priority Area 5</b>	<b>Protection of LGBTI Individuals against Discrimination</b>		
<b>Recommendations (Goal to be achieved)</b>	<b>Action</b>	<b>Lead Agency/ Jurisdiction</b>	<b>Performance Indicators/ Timeline</b>
Eradicate gender discrimination in the workplace.	This should include the eradication of gender discrimination in employment, by ensuring that the businesses employment policy excludes any gender biases.	Businesses	All actions must be in strict compliance with the Gender Equality Act (1 year)
Develop policy to prevent sexual harassment and discrimination in the workplace.	The policy should outline enforcement mechanisms, including with respect to reporting and redressal. It must list practices that could be punishable.	Businesses	The policies must be clear and provide effective deterrents for violations. (2 years)
Implement policies to prevent gender discrimination towards users of services of the business.	The policy must outline implementation practices and put in place specific punishments for violators.	Businesses	It must include punishment of staff with the potential to terminate their employment
Report on gender equality in the workplace.	This can be done by publishing a report every year on gender equality, including relevant information on gender discrimination.	Businesses	The report must be publicly available (1 year)
<b>PILLAR III: ACCESS TO REMEDY</b>			
<b>Priority Area 1</b>	<b>General access to remedies and compensation</b>		
<b>Recommendations (Goal to be achieved)</b>	<b>Action</b>	<b>Lead Agency/ Jurisdiction</b>	<b>Performance Indicators/ Timeline</b>
Provide mechanism to remedy violations on the right to protect against discrimination.	The mechanisms provided must be well publicized at the local level.	Businesses	Effective access must be guaranteed and built into the mechanism (2 years)

Provide remedy for the impact of rights violation.	Remedy must be provided for both the physical and mental impacts	Businesses	The remedy must respond effectively to the needs of affected persons and communities (1 year)
Establish grievance redressal mechanisms.	The mechanisms should provide an appropriate and effective remedy.	Businesses	The remedial process must have a clear timeframe (1 year)
Use funds effectively for remedy of the violation of rights.	The remedial process and the provision of compensation should include participation from all stakeholders.	Businesses	The grievance redressal mechanism and compensation must remedy real and adverse impacts of the violation. (2 years)
<b>Priority Area 2</b>		<b>Access to remedies and compensation by PLHIVs</b>	
<b>Recommendations (Goal to be achieved)</b>	<b>Action</b>	<b>Lead Agency/ Jurisdiction</b>	<b>Performance Indicators/ Timeline</b>
Provide mechanisms of remedy for PLHIVs who have suffered the violation of their rights.	The mechanisms for remedy must operate particularly at the local level.	Businesses	The mechanisms must be systematic and clear. (2 years)
Establish grievance redressal mechanisms.	These mechanisms must be utilized to address termination of employment on the grounds of HIV status.	Businesses	They must provide effective appropriate and effective remedy (2 years)
<b>Priority Area 3</b>		<b>Access to remedies and compensation by LGBTI Individuals</b>	
<b>Recommendations (Goal to be achieved)</b>	<b>Action</b>	<b>Lead Agency/ Jurisdiction</b>	<b>Performance Indicators/ Timeline</b>
Develop complaint mechanisms that can be accessed in workplace and entertainment venues	This mechanism must be utilized in partnership with all relevant stakeholders	Businesses	Complaints must be processed in a specified timeframe. (2 years)
Set up a remedy fund.	The remedy fund should provide for injured parties and it must be used appropriately.	Businesses	Meet the needs of the injured parties in an effectively, with a specific timeframe. (2 years)
Document the situation of LGBTI employment.	The document must be published in a report that is available and accessible	Businesses	The documentation must be updated on a yearly basis (1 year)

#### About the Thai BHR Network

The Thai Business and Human Rights Network (TBHRN) is an informal, inclusive and intersectional coalition of human rights defenders, community leaders, researchers, academics, and non - governmental organisations from the local, national and regional spheres, who are joining hands to ensure local communities are central to the business and human rights response in Thailand. The Network engages in advocacy, dialogue, and monitoring of business and human rights commitments made by the Royal Thai Government, in particular in engaging in the development and monitoring of the National Action Plan on Business and Human Rights. More information on the TBHRN and its role can be accessed at:  
<https://www.manushyafoundation.org/coalition-building-workshop-report>





# MANUSHYA

Empowering Communities | Advancing Social Justice

Founded in 2017, Manushya Foundation serves as a bridge to **engage**, **mobilise**, and **empower** agents of change by: connecting humans through inclusive coalition building and; by developing strategies focused at placing local communities' voices in the centre of human rights advocacy and domestic implementation of international human rights obligations and standards.

Manushya Foundation strengthens the solidarity and capacity of communities and grassroots to ensure they can constructively raise their own concerns and provide solutions in order to improve their livelihoods and the human rights situation on the ground.

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