

**The Convention for the Elimination of all Forms of Discrimination Against Women
(CEDAW)
67th Session
Geneva
3-5th July, 2017**

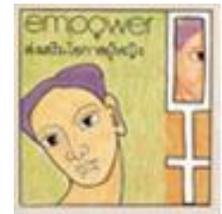


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CEDAW, the Convention for the Elimination of all Forms of Discrimination Against Women was ratified by Thailand in 1985, the same year Empower was born in the bars of Patpong, Bangkok – coincidence or fate?



In any case after more than 30 years and 14 successive governments sex workers in Thailand continue to live and work on top of stigma, criminalization and discrimination before the law and in society.

Women who work in Entertainment Places deal with entrapment by authorities, and lately even by INGO's, that usually result in violent raids. These practices abuse the rights, safety and dignity of women. Often the operations are also in breach of the national laws and procedures.

Since its inception in 1979 the Concluding Observations of the CEDAW Committee concerning women who do sex work, regardless of the reporting country context, have largely focused on promoting prohibition and prosecution, and since 2006 on "end demand". Prostitution has been traditionally framed by the Committee as inherently exploitative and therefore equated with a breach of the Convention and as human trafficking. We believe this focus probably reflects the original ideology that informed the creation of Article 6 on Trafficking and Exploitation of Prostitution in 1979.

The space to advocate for human rights in Thailand in the current climate is tiny and shrinking. This year we decided to make some space within the CEDAW Session for sex workers. We wanted to encourage the Thai government to recognize and fulfill its legal obligations to the hundreds of thousands of women in Thailand who support themselves and their families by doing sex work. Sex workers have a right to the all the protections provided for in CEDAW equal to that of other women who do not do sex work. This was the first time Empower had travelled to Geneva to meet with the CEDAW Committee – and the first time the reality and priorities of the sex workers from Thailand were made visible in CEDAW.



Success!

On 24th July 2017 the Committee on the Convention for the Elimination of all Forms of Discrimination Against Women (CEDAW) made their Concluding Observations on Thailand.¹ Sections 26 and 27 of the Observations focus specifically on sex work.

In short the Committee expressed concerns about issues which echo the concerns of sex workers in Thailand and around the world i.e. impact of criminal law; entrapment, raids and extortion; discrimination and neglect under labor law. The Committee acknowledges the need to end poverty and for there to be more economic opportunities for all women and girls (27b & 27e). The Committee calls for an immediate end to entrapment, raids and extortion (27d) Furthermore they urge the government to enforce labor protection and decriminalize sex work. (27a, 27f & 37b²)

We took our hopes to Geneva and we were seen and heard! Freedom from discrimination for all women, including sex workers, has been acknowledged as the critical issue. Improving our lives became more important than increasing the stigma and violence against us as punishment for the work we do.

*Concluding observations on the combined sixth and seventh periodic reports of Thailand³
Extract: Article 6 Exploitation of Prostitution*

26. The Committee is concerned that a large number of women and girls are subjected to exploitation through prostitution in the State party and that women in prostitution are criminalized under the Suppression and Prevention of Prostitution Act of 1996, while those who exploit women in prostitution are rarely prosecuted. It also notes with concern that women working in the entertainment sector are presumed to be guilty of prostitution under the Act, arrested and subjected to humiliating treatment following violent police raids, and targeted in entrapment operations by police officers. The Committee is further concerned at reports of official complicity in the exploitation of women in prostitution, including large-scale extortion by corrupt police officers. It also notes that even women employed in legally operating enterprises in the entertainment sector do not benefit, in practice, from the protection of labour laws and social benefits available to other workers.

¹ CEDAW/C/THA/CO/6-7

² 37.(b) Ensure that the rights of women in the informal sector are effectively protected, including by ensuring adequate coverage of labor and social security protections;
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fTHA%2fCO%2f6-7&Lang=en

³ Concluding observations on the combined sixth and seventh periodic reports of Thailand
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fTHA%2fCO%2f6-7&Lang=en

27. *The Committee recommends that the State party:*

(a) Review the Suppression and Prevention of Prostitution Act to decriminalize women in prostitution;

(b) Address the root causes of prostitution and adopt targeted measures to prevent women in vulnerable situations from entering prostitution, including by providing women with alternative income opportunities;

(c) Investigate and punish individuals who exploit women in prostitution, including government officials;

(d) Immediately end the practice of violent raids of entertainment venues, entrapment operations and extortion, and hold individual police officers accountable for their involvement in such activities;

(e) Provide assistance, rehabilitation and reintegration programmes for women and girls exploited in prostitution, in addition to exit programmes for women wishing to leave prostitution;

(f) Ensure the full application of labour laws and social benefits in all enterprises in the entertainment sector, especially to women employed in the legally operating enterprises in this sector.

The Way Forward

Now the work begins of bringing the commitments made and the Concluding Observations home to Thailand to make sure what happened in Geneva does not stay in Geneva!



The Journey

Empower Shadow Report to CEDAW

As a first step we developed a Shadow Report specifically highlighting the key concerns of the situation of women of sex workers in Thailand. Our full report can be downloaded from the OHCHR website.⁴ It was important to carefully read CEDAW Committees List of Issues which they had raised and the Thai government's responses including their initial report to CEDAW. In writing our report we took note of the issues similar to ours raised in the Shadow Reports submitted by other human rights and women's rights organizations in Thailand e.g. Foundation for Women, the National Human Rights Commission and Protection International.

Our shadow report described the harmful legal environment and impacts of the 1996 Prostitution Act including a presumption of guilt and collective punishment of sex workers. We identified the ways in which entrapment operations and violent raids violate national laws and CEDAW. Our report also raised the issue of corruption and extortion. We pointed out the lack of labor protection and impact of discrimination in anti-trafficking practices especially for migrant women and girls. Finally we included the issues of police using condoms as evidence of prostitution which violates health rights and the absence of skill training for women in the sex industry which is not in line with Thailand's obligation to women's educational rights.

We also provided suggestions of how reform of the industry could be undertaken – Entertainment Work 4.0.

- 1. Pass a Cabinet Resolution suspending the enforcement of the Suppression and Prevention of Prostitution Act 1996 in establishments that comply with licensing e.g. the Entertainment Place Act 1966(2003) or other commercial licensing*
- 2. Ensure that all law enforcement authorities strictly comply with the Thai Criminal Code.*
- 3. Bring together representatives from relevant agencies including Empower Foundation to develop a road map for the implementation of a Decent Work framework and the enforcement of Thai Labor Standards System and Occupational health and Safety in all entertainment places.*
- 4. Convene an Ad hoc Committee charged with developing a clear measurable definition of "exploitation of prostitution" and carry out a full review of the Suppression and Prevention of Prostitution Act and the Entertainment Place Act. The committee to be comprised of at least one third of affected people i.e. sex worker's representatives from Empower Foundation in accordance with the Thai Constitution 2017*
- 5. Provide access for women to accredited training for the entertainment sector using a curriculum designed in collaboration with sex workers*
- 6. Develop migrant worker policies that promote the rights of migrant women in the entertainment Industry.*

⁴ OHCHR Empower Foundation Report : CEDAW (download)
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fNGO%2fTHA%2f27511&Lang=en

We had been told that simply sending a shadow report is not as useful or powerful as meeting with the CEDAW Committee and attending the Session in person. Urgent Action Fund provided partial funding support for two Empower members (Chatchalawan Muangjan and Nang Mai) to attend the Convention on the Elimination of All Forms of Discrimination against Women 67th Session in Geneva (01 Jul 2017 - 05 Jul 2017) Liz Hilton from Empower also joined the team. Empower was joined by our allies from the English Collective of Prostitutes and Women in Dialogue who are part of the Global Women's Strike.

The CEDAW Committee

The CEDAW Committee is made up of 23 expert members; 22 women and one man. The members have decades of experience in the field of women's human rights and have held high positions in the field of justice and law, and also within their own governments. They are responsible for reviewing all reports and evidence from the State and Civil Society; raising areas of confusion or concern with the government and making a final report "CEDAW Committee Concluding Observations".

Process

Thailand was one of four countries having a CEDAW review Costa Rica, Italy and Romania were also at the Session. The Cedaw Committee is divided into working groups for each country and then each member covers a different Article from the 16 Articles of CEDAW. The CEDAW review process takes place over a three day period. There are two key opportunities to provide information to the CEDAW Committee.

1. Oral Statements presented from all 4 countries - followed by Q & A
2. Country Specific Lunch Briefing (e.g. Thailand only)

In addition it is possible to have quick chats, set up side-meetings and/or send additional written information to the Committee throughout the 3 days.

The third day is the official Session which is a review with the government Civil Society can attend to listen.

Day One: Oral statement

Eleven women's groups from Thailand sent 16 representatives to CEDAW. Oral Statements to the Committee are limited to 10 minutes per country. Rather than divide the time we decided to combine our strengths and create a single joint statement.⁵ We all felt presenting from a point of unity was more powerful and may make a bigger impression than then hearing from 2-3 disconnected groups and speaking about separate issues. It also gave us the chance to try and include the situation of women unable to be in Geneva.

⁵ Women of Thailand Joint Statement and list of Organizations
<http://protectioninternational.org/2017/07/04/statement-women-thailand-coalition-67th-cedaw-session/>

The paragraph in the Statement from Empower:

"Women who do sex work, including trans-women sex workers, experience human rights violations from police practices such as violent raids and detention. Women in particular face entrapment based on manipulation of our sexual consent as a consequence of the Prostitution Act 1996 and Human Trafficking Act (2008). Entrapment and raids occur more than once a month with 19 incidents in the last 6 months affecting over 200 women"

We were proud to have our joint statement read by Kanlaya Chularattakor from the Indigenous Women's Network of Thailand (IWNT) the first time an Indigenous woman from Thailand has done so, and Ajaan Amporn Marddent from the Southern Women's Peace Network to Stop Violence. They both did an excellent job of making our voices heard and our situation visible.

The only question directed to Thailand during the Session was from Committee member Patricia Shultz who asked Empower to clarify the situation of labor protection and the legal environment of women working in the entertainment industry. We were able to tell the Committee that although sex workers are not excluded from the Labor legal framework it was not enforced and women were left unprotected by labor law and punished by criminal law.



Ms Angkana Neelapaijit Commissioner from the National Human Rights Commission of Thailand Chair of the Sub Committee on Human Rights spoke in strong defense of women's rights and on the current situation in Thailand. She stressed the need to ensure protection for WHRDs, including those of us reporting to the CEDAW Committee.

Day Two: Luncheon Briefing

We were assigned a small room without windows to hold a country specific briefing for the CEDAW Committee members, especially those who were part of the Thailand taskforce. We had been thinking about our friends and sisters not present at CEDAW. Refugee women, women in prison, disabled women, women living with HIV, migrant women, women who use drugs, mothers and other carers, women who beg and more. The room had lovely plain walls for us to create a mural to draw our attention to the women left behind.



Empower also used a corner to further brighten up the room.



Government delegates or others attending must sit in an annex where they can hear us but not see us. It is not really effective security as the delegates come through the main room to reach the annex and we all introduce ourselves before we speak. It may be better if they sat with us in the open so we don't forget they are listening?

Fourteen Committee members joined the briefing which was moderated by Ms Pornpen Khongkachonkiet representing AIPP and the Cross Cultural Foundation of Thailand.

Each of our group gave a short presentation. Empower highlighted abuses by the authorities, collective punishment and presumption of guilt in breach of the Convention and the rule of law.

"We have come to CEDAW to get protection from the police" Mai Empower 2017

We also described the impact of lack of labor protection on women's lives. The CEDAW Committee Madam Chair on Thailand, Ms. Rosario G. Manalo and Patricia Shultz both asked us questions to further clarify the legal environment and labor framework further.

It is a very short session of just 30 minutes and it is important to be well prepared to use the opportunity fully. They call it an "informal briefing" but we found out that does not mean relaxed and chatty! The Committee requested additional information on several issues for women in Thailand. Our group compiled seven additional papers that night and had them delivered to the Committee members in the morning ahead of the official government reporting session.



Day Three Consideration of Thailand: 1504th Meeting, 67th Session CEDAW

The room is large and seating areas are strictly divided by sector i.e. Government to the right wing, CEDAW Committee central with UN agencies behind, National Human Rights Commissions center-left and Civil Society in the left wing.



The Thai government delegation was 31 persons led by the Deputy Permanent Secretary, Ministry of Social Development and Human Security (MSDHS), Ms. Napa Setthakorn. The delegation also included representatives of the Ministry of Interior, the Ministry of Labour, the Ministry of Education, the Ministry of Foreign Affairs, the Constitutional Court, the National Legislative Assembly, the Royal Thai Police, the Committee on the National Commission on the Policies and Strategies for Women Advancement, the Southern Border Provinces Administrative Centre, and the Permanent Mission of Thailand to the United Nations.⁶ The Government delegation is usually just 8- 10 people.

After the opening statement from Ms. Napa Setthakorn (MSDHS) the Committee began to offer comments and pose questions to the Government. The process deals with each article in order throughout the day (1 -16) starting with Articles 1 & 2 on this occasion led by Madam Chair Ms Manola. Of the 31 Government delegates only six or seven had the opportunity to address the Committee's questions and comments. The full Session was screened live and is available on the UN website.⁷

We had some hope but no indication whether our concerns would be mentioned or even if we had explained our case clearly enough to the Committee. We were very impressed with the amount of insight that the CEDAW Committee had on the situation in Thailand for women generally and felt encouraged by the direct style with which they approached the review. Still it was a long two and a half hours anxious wait until the review of Article 6 began and the first mention of sex workers.

"As we listened to the questions from the Committee and the replies from the Government our hearts lifted higher, our eyes grew wider and our smiles got broader"

⁶ Full list Royal Thai Government delegates:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1078&Lang=en

⁷ <http://webtv.un.org/search/consideration-of-thailand-1504th-meeting-67th-session-committee-on-elimination-of-discrimination-against-women/5493644366001?term=thailand#full-text>

This is what we heard ...⁸

2:29:59 Commissioner Naéla Gabr Egypt:

“Prostitution is criminalized but people working in Entertainment places are not considered to be doing illegal activity... how government protect women working in such activities from exploitation and we need a clear definition how government apply labor protection to this category of people?”



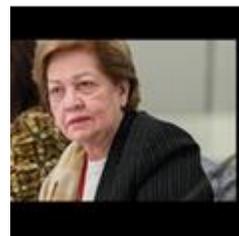
Reply on Labor Protection: Mr. Vivathana Thanghong, Inspector-General, Ministry of Labor

“I would like to thank for comment on migrant workers and female work in entertainment services. Chairpersons **we regard female working in the entertainment** by virtue of the labor law the rights general conditions of the worker working in the entertainment **are protected by the Labor Protection Act the Social Security Act and the Employment Compensation Act and other related labor laws the same as workers in other business.** Furthermore workers working in the informal economy irrespective of their occupation can insure themselves and receive the benefits of the social security fund under Section 40 of the Social Security Act. **Regarding the employment of migrant workers in the Entertainment Sector I would like to inform that employers in the entertainment sector can legally employ unskilled migrant workers, both male and female for their legal activities in the establishment ...again all of the leally employed migrant workers in this sector are protected under labor laws”**



2:49.30 Ms. Rosario G. Manalo, the Chairperson for the Committee on Thailand for the Session,

“Prostitution is prohibited and criminalized in your country. But women in Entertainment whether they are prostitutes or not are always held by entrapment by the police We have heard from your NGOs who have been victimized. Also the victims are not allowed to have Unions and also not provided with Legal Aid. Where is the Social Security Law when it is no longer provided for in the 2017 Constitution? May I be enlightened on these points Thank you”



⁸ (transcribed from the webcast)

Reply Re: Entrapment : Pol. Maj. Gen. Kriboon Suadsong, Commissioner, The Office of Police Strategy, Royal Thai Police

Regarding the case of entrapment operation we would like to reassure the Committee the Royal Thai Police never have a policy to employ such methods and does not support such methods by police officers. The Royal Thai Police is open for any information or complaint from anyone for misconduct and stands ready to launch an investigation of those concerned officers



2:50:20 Commissioner Patricia Shultz:



"I too will intervene on the issue of sex workers. I refer to those employed in legally registered Entertainment Places who are often victims of raids and entrapment as Madam Chair Manola has just reminded us. And those operations are conducted in violation of the Thai Criminal Code. Though they are working in legitimate enterprises they are exposed to the permanent risk of being accused of involvement in illegal activity and do not benefit from the presumption of innocence. We have just been informed by the gentleman that these persons are protected by Labor Law and Social Benefits but this is not what we have informed by alternative sources. I would also like to stress that the access to justice is often reduced due to stereotypes and corruption. Extortion by corrupt police is frequent and steals a large chunk of the incomes of the women. My question is do you intend to suspend the Suppression and Prevention of Prostitution Act of 1996 for legally registered enterprises? Will you take measures to abandon violent raids or entrapment operations? How do you see the best way to protect women from extortion by corrupt policemen a problem underlined by the International Labor Organization? How do you reconcile your information of enforcement of Labor Laws with the other information form CSO's and other sources? Can you for instance can you give me the type and number of cases that sex workers have brought against their employers for labor violations? Will you extend migrant worker policies registration to workers in the Entertainment Industry? Can you clarify the definition of exploitation of prostitution avoid wrongly based rescue measures where no minors are involved. Finally I would like to express my regrets that we have not received any information on women trafficked in other sectors aside from the sex industry."

Reply re Law Reform: Assoc. Prof. Juree Vichit-Vadakan, The Second Vice- Chairperson of the Committee on the National Commission on the Policies and Strategies for Women Advancement



On the question of prostitution I am going to be very candid there are two strains of thought in society whether to legalize or not to legalize it and we do not have any kind of final conclusion on this. There are obviously pros and cons to both legalization and not legalization but **we agree that the main issue is how to not let the sex workers be exploited and the extortion etc. that we talk about I think this is the critical issue.**

I believe that under the new constitution any law that will be passed would have to go through public hearing and public discussion so there will be wider participation on every law passed.

(On Labor Protection) Good laws exist but there is a gap between implementation as happens in our country and many many other countries so we are aware of this issue and we will try our best to try and change them.

All the participants were very excited and happy to hear the genuine concern from the Committee and sincere commitments from the Thai government delegates.



The Way Forward

Now the work begins of bringing the commitments made and the Concluding Observations which followed home to Thailand - to make sure what happened in Geneva does not stay in Geneva!

Reflections on the Committee

Ms. Rosario G. Manalo Philippines



Consitution/Law

Patricia Shultz Switzerland



Naéla Gabr Egypt



Trafficking

Gunnar Bergby Norway



Labour

Ismat Jahan Bangladesh



Rural Women

Hilary Gbedemah Ghana



Statelessness

Ms. Rosario G. Manalo, the Chairperson for the Committee on Thailand for the Session, is a strong and passionate advocate for women, justice and rule of law. We felt she recognized that even if she does not approve of what we do, she can see that the impact of the criminal law and enforcement by authorities is even worse.

***"Our Madam Chair Ms Manola stood up for us and spoke out strongly -
we will never forget that."*** ***Nang Mai Empower***

Ms. Patricia Shultz has spoken about sex work in other forums that we attended and we understood her to have strong commitment to women's labor protection and rights. We believe she recognizes sex workers as workers who must have the same protections as other workers, and that application of criminal law is not useful in promoting the rights and safety of women

who do sex work. Ms Patricia made certain our lives and our priorities were at the central to all discussions. She made it possible for the Committee and the Government to begin to understand that *"our basic rights as women and workers should not be limited or defined by the type of work we do."* Mori, Empower

Both **Ms Manola and Ms Shultz** were forceful in their comments for the recognition and protection of Women Human Rights Defenders whether we are fighting for our rights to gather in peaceful protest, to work, to farm land, or to care for the natural resources etc.

Ms Naela Gabr carried the important role of covering Article 6 of the Convention on Trafficking and Exploitation of Prostitution. Empower has over 15 years of experience of standing with women and girls who have had their rights abused in the name of "rescue" or anti-trafficking. Ms Gabr raised many important points with the government about the process and also life after "rescue". Her comments also reflected our concerns about the lack of definition of "exploitation of prostitution", common misunderstanding of trafficking and the treatment of girls and women in detention. Empower was heartened to hear her identify erosion of land rights for indigenous peoples, environmental degradation, societal expectation around children's labor, complicity and poor understanding of actually what is human trafficking as some of the root causes that must to be addressed.

Ms Ismat Jahan and Ms Hilary Mgbedemah made the situation and concerns of rural, migrant and stateless women very clear for the Committee and the Government Many women who do sex work in Thailand come from rural areas, including indigenous and migrant sex workers. Rural women, motherhood, citizenship, land and environmental rights are all important issues for women who do sex work..

Mr Gunnar Bergby thought he did not talk about the labor rights of sex workers directly he was a strong advocate for the rights of working women. Many of his concerns and comments about the situation of women who do domestic work can be applied equally to that of women who do sex work.

We know other Committee members must have contributed to the success of the Session working from behind the scenes in many ways and we thank them all for hearing us.



Barriers to reaching CEDAW

Eleven Thai women's organizations were represented at the 67th Session on Thailand 5th July 2017. Among our group were women human rights defenders from communities fighting land issues and exploitation of natural resources as well as sex workers and Indigenous women. The presence of and the testimony from women most impacted by discrimination serves to strengthen and enrich the CEDAW processes.

However there are still difficulties and barriers that community women leaders and activists must overcome to reach the CEDAW Sessions.

1. There is no alternative to online application to attend CEDAW even though not all areas of the world have internet access
2. Each participant needs a separate email address to be able to register though many women still have no email or internet
3. The detailed information required for the application such as home address, eye colour, height and weight feels threatening to women who are criminalized and/or already being monitored and targeted by surveillance by the State
5. The registration process is not available in all languages so local organizations become burdened with filling out multiple application forms for each participant.

We would like to suggest:

- CEDAW administration coordinate with UN Women country offices to be the focal point for registering participants from their countries. - The processes developed by the UN Women country offices would need to offer women the opportunity to telephone the focal person of their intention to attend, provide the details needed in their own language – to ensure it is not simply the creation of yet another on line process that is out of reach. - Perhaps UN Women could also play a role in facilitating visas and negotiate for a visa fee waiver for women attending CEDAW? - Finally we note that UN Women assisted the government in preparing for CEDAW including holding a mock session for delegates. At the same time IWRAW needs to charge local women's organizations up to \$500 each to cover the costs of a similar training. Perhaps UN Women could expand its support to include supporting preparation and facilitation of women attending CEDAW?