

# PROMOTING AN INCLUSIVE WORKPLACE FOR PERSONS WITH DISABILITIES IN THAILAND



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**United Nations Development Programme Thailand**

14th Floor United Nations Building  
Rajdamnern Nok Avenue  
Bangkok 10200, Thailand  
Email: [undp.thailand@undp.org](mailto:undp.thailand@undp.org)  
Tel: +66 2 304 9191



<http://www.th.undp.org>



@UNDPThailand



@UNDPThailand



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UNDP's working team for this research comprised of Kirke Kyander – Gender Advisor, Supanee Pongruengphant – Project Manager-Gender Equality and Social Inclusion, Reidun Gjerstad- SDG Advisor, and Nichakarn Kaveevorayan – Disability focal point.

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# LIST OF ACRONYMS AND ABBREVIATION

<b>DOE</b>	Department of Employment
<b>DAWG</b>	Department of Empowerment of Persons with Disabilities
<b>DEP</b>	Disability Action Working Groups
<b>OPDs</b>	Organisation of persons with disabilities
<b>PWDs</b>	Persons with disabilities
<b>PDEA</b>	Persons with Disabilities Empowerment Act
<b>WHO</b>	World Health Organisation
<b>UNCRPD</b>	The United Nations Convention on the Rights of Persons with Disabilities

# EXECUTIVE SUMMARY

The consensus among stakeholders is that the Persons with Disabilities Empowerment Act of 2007 (PDEA) represents a milestone in the promotion of the rights of persons with disabilities (PWDs) in Thailand, notably the right to work. However, the implementation of the PDEA and a quota system has been a challenge.

Persons with disabilities face many barriers in working. In the concluding observations on the initial report from Thailand (2016), the UN Committee on the Rights of Persons with Disabilities (CRPD) expressed concerns regarding “persisting negative attitudes, stereotypes and prejudices against persons with disabilities”. Despite the Thai government’s recent progress in reducing stigma and discrimination and increased participation of organisations of persons with disabilities (OPDs), remaining cultural and societal misconceptions prevent persons with disabilities from reaching their full potential. This is also true in the area of employment, where both public and private employers are often reluctant to hire people with disabilities for various reasons (e.g. misconception about their inability to perform on the job and fear of negative reaction from able-bodied co-workers or customers)

Women with disabilities struggle with multiple barriers and layers of discrimination based on gender, disability, level of education, skills, and poverty. In comparison to men, they are less likely to receive education and thus considered to be underskilled. As a result, women with disabilities tend to receive low-skilled jobs, lower pay, and fewer options for career development. Employment quota for persons with disabilities is not gender-sensitive, whereas available data on employment is not gender-disaggregated.

According to the 2017 Disability Survey, the majority of people with disabilities had difficulties in accessing education and skill enhancement opportunities, making their options for employment and competitiveness in the job market limited. Persons with disabilities sometimes face barriers within their own families, who are reluctant to invest in the education of family members with disabilities. Due to their social status and subjection to social exclusion, persons with disabilities tend to have lower levels of self-confidence and “soft skills” as well as

difficulties in communicating with people outside their families and communities. While applying for jobs, they must grapple with bureaucratic procedures that are lengthy and time-consuming, such as collecting required documents, filing forms and applications, and in some cases preparing curricula vitae and having interviews. All of these steps needed for job application effectively discourage persons with disabilities from seeking employment.

Access to information for visually and hearing-impaired persons represents a barrier. Printed information (including important public announcements) is rarely provided in braille, while sign language interpretation on TV and online content is not common. Under such circumstances, obtaining important information and news reports, including those relevant to job search, is not an easy task. In addition, many people with disabilities, particularly those with low income or living in rural areas, have limited access to internet and IT equipment.

In addition, both private and public employers have limited understanding of the term “reasonable accommodation”. This situation hence creates unequal opportunity of employment for job seekers with disabilities. Generally, persons with disabilities do not have a participatory role in determining what constitutes reasonable accommodation. When investing in reasonable accommodation, employers tend to favour a “group” approach instead of a “custom” approach.

Physical accessibility of buildings, infrastructure, and lack of accessible transport prevent persons with disabilities from securing jobs in Thailand. Although new buildings provide more accessibility, older buildings are under-equipped. The government and organisations of persons with disabilities (OPDs) are in the process of drafting and passing the new Accessibility Act, which is expected to offer solutions to this problem.

Section 33 of the Persons with Disabilities Empowerment Act addresses the implementation of the quota system for the employment of persons with disabilities. Both private and public sector employers are obliged to hire one person with disability for every 100

employees in the establishments or State Agencies. Section 33 guarantees job security for persons with disabilities, opportunities for salary increase, career advancement as well as other welfare and benefits included in employers' packages. Private sector employers who act in accordance with Section 33 will be able to claim tax deductions that equal to twice annual salary.

Section 34 provides a legal alternative to Section 33. It specifies that employers in the private sector who do not comply with Section 33 shall send money to the Empowerment Fund, generally in the amount of minimum annual salary. This will be tax deductible, though this does not of course apply to public organisation.

Section 35 is also supplementary to Section 33. It stipulates that, in lieu of following what is prescribed in Section 33, employers may assist persons with disabilities by providing grants for self-employment, apprenticeships, and training opportunities; hire them as subcontractors; and give support to facilities that fall under the management of local governments (e.g. health centres, schools, and administration). This section also guarantees that private sector employers are entitled to claim tax deductions in the amount of a salary paid to an employee.

Based on the situation analysis, the research team provides recommendations reflect current political, economic and development environments in Thailand, ensuring its applicability to the society.

In order to mitigate negative stereotypes and prejudices against persons with disabilities, additional awareness-raising campaigns that target both private and public employers are needed. To stimulate employment of women with disabilities, several measures can be put in motion, such as data disaggregation by gender and the introduction of more financial and administrative incentives for women's employment. On a systemic level, the PDEA's coverage of challenges faced by women with disabilities should be subjected to review.

Furthermore, current administrative requirements and practices for employment should be analysed and adjusted so that potential bottleneck and unnecessary bureaucracy for employers and job seekers can be removed.

Regarding education and vocational skills of persons with disabilities, focus should be given to emerging trends, such as the rise of digital technology following the spread of the COVID-19 pandemic. Persons with disabilities

should be further encouraged to develop skills needed in labour markets. Job centres must be able to accommodate the needs of job seekers with disabilities. In addition, innovative practices regarding employment or skill enhancement of persons with disabilities should be recognised and further endorsed.

To make significant and more sustainable gains in employment of persons with disabilities, additional efforts in securing real partnership with the private sector are required. It is recommended that the private sector takes part in the decision-making process in policy making and financing. Examples include offering of employment support services (e.g. technical advice and training on reasonable accommodation, accessibility audits, employee placements, and support services in the workplace), subsidies for reasonable accommodation investments, and favourable treatment in public procurement process.

While the disability-related law is strictly applied to the private sector, the situation for public actors is different. Within the public sector, compliance with the law is uncommon. This challenge can be mitigated by introducing proper mechanism to address the disproportion between levels of compliance within private and public sectors, such as creating mechanisms to increase employment of persons with disabilities within public institutions, introducing stricter monitoring mechanisms, and increasing transparency and accountability in the public sector. To increase understanding of disability and implement human rights models of disability in employment, capacity of civil servants and public sector employees must be elevated.

The research team maintains that decision makers should focus on maximizing employment under Section 33, as it provides for more decent jobs, better pay and greater job security. Apart from designated financial amounts paid to the Empowerment Fund, Section 34 should include an additional levy to discourage the overuse of this alternative. However, the amount of money should be increased incrementally to avoid adverse reaction from the private sector. Implementation criteria for Section 35 should be reviewed and streamlined particularly in the public sphere.

# PART 1 -SITUATION ANALYSIS

## Objective

The objective of this section is to analyse and understand the current situation of disability inclusion in the workplace in Thailand as well as the barriers to employment of persons with disabilities.

## Constraints and methodology

Due to the COVID-19 pandemic, there were no travel or field visits by the researchers. Interview and data collection processes were carried out online. Research techniques included in-depth interviews, questionnaires, and focus group discussions with project beneficiaries (persons with disabilities and OPDs), relevant government agencies, and other relevant partners and stakeholders.

During the time this research was conducted, Thailand was hit by the worst wave of the COVID-19 pandemic, with more than 20,000 new infections and 200 deaths being reported each day. In response to the crisis, the Royal Thai Government introduced emergency measures to restrict movements and working hours, temporarily limiting citizens' freedom. Most businesses, organisations, and government agencies also adopted extraordinary measures and switched to "emergency" mode operation, with most of their staff working remotely.

Under such circumstances, it was difficult to find appropriate contacts and organise meetings. As a result, the researchers managed to secure only a few interviews with government entities and businesses. It is worth noting that the scarcity of primary sources might affect the quality of the report. However, the researchers were able to obtain information from a variety of OPDs, disability activists, and persons with disabilities, who participated in in-depth interviews, surveys, and focus group discussions. This practice was in line with the original intention of analysing disability-inclusive workspace with the perspective of persons with disabilities. For more details about surveys, please see Annexes.

## Surveys

Two surveys were conducted in the framework of this analysis. It is important to mention that the surveys do not represent the real picture and the structure of the persons with disabilities in Thailand. Hence, they cannot be perceived as scientific research. It could be said that these surveys serve as a means to identify main challenges and issues for further exploration. There are numerous references to the surveys in the report which were used to strengthen the rationale of the report's findings.

The first survey comprises 120 respondents who are, or were, employees with disabilities (55 men, 58 women, and 6 persons who do not declare their genders). The purpose of the survey is to identify the main barriers for entry into the job market and to understand the level of inclusion that persons with disabilities experience in the workplace once they are employed.

Out of 120 respondents, 53% have mobility or physical impairment; 34% have visual impairment; 5% have hearing impairment; and 8% have psychosocial, autism or learning difficulties. The respondents' structure does not represent the structure of the population with disabilities. The survey was distributed among OPDs; their participation in the research was voluntary. Regarding educational levels of the respondents, 25% have a bachelor's degree or higher; 58% have a high school degree; and 15% have elementary level or no education. The predominant age groups in the sample are 21-30 years of age (43%), following closely by 31-40 years of age (41%), 41-50 years of age (9%), and 51-65 years of age (7%). As for parts of the economy in which the respondents participate, 35% work in the private sector; 13% work in government agencies; 30% are self-employed; 19% work in civil society organisations; and 3% are unemployed. In terms of occupation, 16% of the respondents work as cleaners; 14% are call centre operators; 13% are traditional street singers; 12% are either lottery sellers, administrators, telephone operators, or masseurs; 9% are servers or work in the hospitality industry; and 4% teachers and lecturers, or work in academia.



The respondents of the second survey are 22 employers from both private and public sectors, ranging from large multinational companies, small businesses, government agencies to non-governmental organizations (NGOs). The purpose of this mini-survey is to look at the employment of persons with disabilities from employers' perspective and to identify challenges that job providers in the formal sector face. A list of companies and organisation surveyed is in Annex 1.

## Disability data

According to World Health Organisation (WHO), over 1 billion people are estimated to live with some form of disability.

This appraisal corresponds to about

**15%** of the world population,

with up to **190 million** people, or

**3.8%** of the world population, aged 15 years and older having significant difficulties in functioning.

According to the 2017 Disability Survey of all age groups, carried out by the National Statistical Office and the United Nations Children's Fund (UNICEF), there were approximately 3.7 million persons with disabilities in Thailand, or around 5.5 % of the total population. Women (5.7%) were more likely to experience disabilities than men (5.2%).<sup>2</sup>

According to the methodology of the 2017 Disability Survey, persons with disabilities were those with the following characteristics:

- 1) Population with difficulties or health problems (862,427 persons)
- 2) Population with impairments (2,831,952 persons)

The survey used Washington Group Short Set of questions, which were internationally recognised as the most accurate and reliable tool to estimate number of persons with disabilities.

According to the survey from 2017, the 60-and-older age group had the highest percentage of disability (20.6%) while percentage of disability in other age groups ranged from 0.4% to 3.0%.

According to the survey findings from 2017, the percentage of the population with disability in rural areas (6.2 %) was higher than urban areas (4.5 %). Furthermore, the northern and northeast regions of the country had higher percentage of disability in the population compared other regions.

## Registered persons with disabilities and Disability ID card

According to data retrieved by the Department of Empowerment of Persons with disabilities (DEP) in 2020, 2,027,500 of persons with disabilities, or approximately 3.05% of the total population, were registered with the authorities. They were hence Disability ID card holders. According to the 2017 Disability survey, this group accounted for 54% of persons with disabilities. The numbers of registered men (1,058,405 persons or 52.20%) surpassed those of their female counterparts (969,098 persons or 47.80%).<sup>3</sup> Disability ID Cards provided persons with disabilities with multiple benefits, for example, free health coverage, ability to obtain or borrow assistive devices, free education (up to bachelor's degree) at public institutions, and monthly financial assistance (800-1000 Baht). In addition, a Disability ID card holder who sought funding for their business or accessibility adjustment at home would be eligible for no-interest loans from the Empowerment for Persons with Disabilities Fund (the Empowerment Fund).

## According to the official data,



<sup>1</sup> <https://www.who.int/news-room/fact-sheets/detail/disability-and-health>

<sup>2</sup> [http://www.nso.go.th/sites/2014en/Survey/social/SocialSecurity/Disabilitysurvey/2017/Full\\_Report.pdf](http://www.nso.go.th/sites/2014en/Survey/social/SocialSecurity/Disabilitysurvey/2017/Full_Report.pdf)

<sup>3</sup> <http://dep.go.th/uploads/Docuents/61ccc2d9-8e3f-4f75-a361-368f5c6a4b80%E0%B8%A3%E0%B8%B2%E0%B8%A2%E0%B8%A5%E0%B8%B0%E0%B9%80%E0%B8%AD%E0%B8%B5%E0%B8%A2%E0%B8%94%E0%B8%82%E0%B9%89%E0%B8%AD%E0%B8%A1%E0%B8%B9%E0%B8%A5%E0%B8%84%E0%B8%99%E0%B8%9E%E0%B8%B4%E0%B8%81%E0%B8%B2%E0%B8%A3%20%E0%B8%A1%E0%B8%B5%E0%B8%8463.pdf>



It is critical to note that 328,309 registered persons with disabilities (38.82%) declined to answer questions regarding their employment status.

In terms of occupation, approximately 50% of registered employees with disabilities worked in the informal sector, notably agriculture and general labour);

**6.67%** were self-employed or freelancers;

**4.7%** were employed in the private sector;

and about 0.36% worked in government agencies. The rest preferred not to answer questions regarding occupation. The data of the employment of registered persons with disabilities was not disaggregated by gender. That is to say, most of the statistical information from DEP was not gender-disaggregated data.

## Legal framework and stakeholders

### Legislative framework

The 2017 Constitution of the Kingdom of Thailand, the supreme law of the land, promotes equality without discrimination and guarantees protection against discrimination on the grounds of disability, physical or health conditions. In addition, the Kingdom of Thailand ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in 2008, and the first progress report by the State Party was issued in 2012.

In the concluding observations on initial report from Thailand (2016), the UN Committee on the Rights of Persons with Disabilities provided several observations and recommendations which were crucial in securing more disability-inclusive employment opportunities. The observations found<sup>4</sup>.

- Denial of reasonable accommodation [not] considered [as] discrimination under the current legislation.
- Persisting negative attitudes, stereotypes and prejudices against persons with disabilities.
- Lack of legislation, policies or programs designed to protect women and girls with disabilities from multiple and intersectional discrimination and violence.
- Lack of implementation of legislation on accessibility, especially in remote and rural areas.
- Right to inclusive education [to be] unfulfilled for many persons with disabilities.
- Low employment rate among persons with disabilities, particularly among women.
- Lack of opportunities for training to gain access to employment.
- Employers' preference to pay a levy to the National Fund for the Empowerment of Persons with Disabilities rather than recruit persons with disabilities.

While the government has made significant efforts in addressing some of these issues (e.g. drafting of Accessibility Act), progress has been moderate.

<sup>4</sup> <https://www.ohchr.org/en/hrbodies/crpd/pages/crpdindex.aspx>

The Kingdom of Thailand also ratified ILO conventions No. 111 (Discrimination-Employment and Occupation) in 2017 and No. 159 (Vocational Rehabilitation and Employment (Disabled Persons)) in 2007.

The Persons with Disabilities Empowerment Act from 2007 (PDEA) is the main legislation that provides for the prevention of discrimination against persons with disabilities; protection of their quality of life; participation in social, economic, and political life; rehabilitation; and access to social services. The main sections of the PDEA that address participation of persons with disabilities in economic life and employment are Sections 33, 34, and 35, which will be further elaborated below.

Another important law is the 2008 Education Act of Persons with Disabilities, which guarantees opportunities for education and skill enhancement for persons with disabilities. Organisations of persons with disabilities (OPDs) and the government is now in the process of drafting and enacting the Accessibility Act. Following consultation, this legislation is considered a priority among legislators. This draft law is expected to make major contribution to the inclusion of persons with disabilities in economic life and employment.

### **Main national stakeholders**

There is unanimous agreement of the existence of the Royal Thai Government's political will to improve, protect, and promote rights of persons with disabilities. The progress during the last two decades, particularly after the enactment of the PDEA, is praised by organisations of persons with disabilities. As of now, the Royal Thai Government redoubles efforts to include OPDs in policy formulation and implementation.

### **The Department of Empowerment of Persons with Disabilities (DEP)**

The Department of Empowerment of Persons with Disabilities (DEP) works under the Ministry of Social Development and Human Security. It is the main actor in promoting disability rights. Its role is to coordinate various government entities, OPDs, civil society organisations, and other stakeholders such as the private sector in the implementation of disability-inclusive policies, ensuring better quality of lives of persons with disabilities. The DEP has its own provincial sections called "Disabilities Service Centres (DSCs)", from which persons with disabilities in each province can receive support. The DEP also coordinates policy development, protecting rights of

persons with disabilities, and ensuring that persons with disabilities can access public services. In addition, the DEP administers the Empowerment fund, which is used to finance projects and initiatives aimed at improving lives of persons with disabilities. The Empowerment fund has several sources of income as stipulated in Section 24 of the PDEA.

Throughout the consultation, the works of the DEP were discussed in positive light; the agency was described as responsive, open to suggestions, and inclusive of opinions of OPDs. The only suggestion that arose from the discussions was that DEP should work more on improving the capacity of provincial officials, particularly those in more remote areas. Needs for better coordination with the Department of Employment (DOE) and the Ministry of Labour on a subnational level were mentioned.

### **Ministry of Labour**

The Department of Employment (DOE) in the Ministry of Labour is responsible for assisting persons with disabilities in employment search. Among other things, it also represents a platform where persons with disabilities can apply for jobs. If requested, the DOE also refers eligible persons with disabilities to employers who are bound by Sections 33, 34, and 35 of the PDEA. Although the research team could not hold a meeting at the national office of the DOE, they were able to visit a provincial office.

### **Umbrella OPD, OPDs**

Disabilities Thailand (DTH) is an umbrella organisation composed of 6 national-level OPDs: Thailand Association of the Blind (TAB), National Association of the Deaf in Thailand (NADT), Association of the Physically Handicapped of Thailand (APHT), Association for Persons with Intellectual Disability of Thailand (APIDTH), Association for the Mentally Ill of Thailand (AIM), and Association of Parents of Thai Persons with Autism (AU-Thai). The main role of DTH is to advocate for disability rights and ensure that persons with disabilities' voices are heard in development and implementation of policies.

**“I was a tour guide before I lost my sight three years ago due to health issue”, said a 41-year-old man. “I can speak Chinese and Russian fluently, but after losing my sight, I had to quit my job.” “I went to several places that I thought my skills would benefit them such as hotels, hospitals or import / export companies.” “The jobs that I was offered were mostly labour works such as cleaning and counting stocks. Most of the employers that I went to did not trust in my ability, didn’t even let me demonstrate my skills”, he added.**

activities. They are also less aware of opportunities and career paths available to them.

**Despite the Thai government’s recent progress in reducing stigma and discrimination and increased participation of OPDs, the remaining cultural and societal misconceptions prevent persons with disabilities from reaching their full potential.**

For example, in a country where Buddhism prevails such as Thailand, disability is often seen as a result of adverse karma in the previous life.

Both public and private employers are often reluctant to hire persons with disabilities. According to the respondents who are employers, half of them cite fear of negative reaction from co-workers or customers as the major source of disinclination.

#### **Lack of education and vocational skills**

According to the 2017 Disability Survey, most persons with disabilities had difficulties in accessing education and skill enhancement opportunities. The percentage of persons with disabilities receiving education (ages 5-24) was significantly lower than the population without disabilities. About 65% did not access any form of education (compared to 28.1% of the population without disabilities) and only 1.2% were in process of attaining a university degree (compared to 8.3% of the population without disabilities).

## **Formal employment**

### **Barriers to entry**

According to the respondents who have disabilities, the greatest obstacles of their entry to the job market include stigma around disability, discrimination, employers’ assumption that they cannot perform the job required, needs for special modification and equipment at the workplace, lack of education and training, difficulties in daily commute to work, lack of support from the family, and access to information.

### **Stigma and discrimination**

Persons with disabilities face discrimination and stigma in everyday lives. They are often being considered a burden to their families, unable to participate in community

Children with disabilities often attend special schools, narrowing their opportunities to secure decent jobs or career. There are two types of “special schools” in Thailand. First, certain special schools are designed for a specific type of disabilities such as visual impairment. Run mostly by private organisations, these schools normally offer boarding, equip students with disabilities with necessary skills, and refer them to mainstream schools afterwards. The second type of special schools is government-run. At public special schools, students with different types of disabilities are enrolled in the same class. Some OPDs report that such schools offer limited opportunities for students and traditional vocational skills (e.g. handicraft, and weaving).

Persons with disabilities sometimes face barriers within their own household. Low-income families often consider investment in education and skills development of persons and children with disabilities as a wasted effort, which results in their limited ability to participate in the job market or attain decent employment. In addition, some families believe that members with disabilities are unable to live independently and receive proper care. Some prefer that members with disabilities stay at home, close to their families, and take care or to help others with housework.

Barriers preventing persons with disabilities from gaining education and adequate skills include social discrimination, physical barriers, and lack of the following factors: financial resources, accessible transport, assistive devices, appropriate teaching methodologies on teachers' and trainers' side. Persons with disabilities from low-income families are often not aware of their entitlement to free education. From time to time, some families have to pay tuition fees and go through a reimbursement process, which is often lengthy.

Possessing a university degree and adequate education does not necessarily secure decent employment for persons with disabilities. The researchers interview several college- or sufficiently educated persons who were unemployed, deprived of their jobs due to their impairment or deteriorated conditions, or forced to take up minimum wage jobs specified under Sections 33 and 35.

### **Lack of soft skills**

Due to their social status and subjection to social exclusion, persons with disabilities tend to have lower levels of self-confidence and "soft skills", as well as difficulties in communicating with people outside their families and communities. Researchers have interviewed a university which initiates cooperation with the private sector in developing a programme that provides free "soft-skills" and administrative training for persons with disabilities. As for attendees, they are entitled to receive salaries and stipends stipulated in section 35. Most of persons with disabilities who completed the courses are able to find employment, while the university also provides contacts and refers them to interested employers.

### **Accessibility**

Physical accessibility of buildings, infrastructure and lack of accessible transport represent a barrier for persons with disabilities getting and maintaining a job in Thailand. According to OPDs, new construction projects increasingly provide for accessible access while the older building and

infrastructure are almost completely inaccessible. While several accessibility guidelines for construction have been issued and current legal provisions refer indirectly to accessibility for persons with disabilities, there are no specific laws or regulations that truly address this issue. DTH is currently working with the DEP on the preparation of the Accessibility Act. So far, OPDs have praised the government's proactive role and willingness to enact this act as soon as possible.

Public transportation, particularly buses, is usually inaccessible and unusable for persons with disabilities. While improvement of public transport in urban centres (e.g. MRT and the Sky train in Bangkok) is noticeable, transportation in rural areas is inaccessible. This issue is particularly severe in the Southern region, where the local topography, militarization, remoteness, and unsuitable transport options (e.g. vans) have rendered accessibility infeasible. The absence of transport infrastructure thus forces persons with disabilities to use taxis as the principal mode of commute, significantly increasing their transportation costs. In addition, most taxis are ill-equipped to accommodate persons with disabilities. Drivers also lack experience in interacting with customers with disabilities.

### **Access to information and IT**

Access to information for visually and hearing-impaired persons represents a barrier. Printed information (including important public announcements) is rarely provided in braille, while sign language interpretation on TV and online content is rare. Under such circumstances, obtaining important information and news report, including those relevant to job search, is difficult. Many interviewees agree that the situation becomes increasingly complicated during the COVID-19 outbreak, where persons with disabilities cannot access information regarding restrictions of movement and vaccination.

Many persons with disabilities, particularly those who earn low income or live in rural areas, have limited access to IT technology and devices (e.g. smartphones, tablets, and PC) and internet. This living condition significantly limits their ability to search for employment and opportunities to enhance their skills.

### **Reasonable accommodation**

"Reasonable accommodation" refer to alterations and/or accommodation that employers provide in the recruitment process, job description, operations, working hours, or the workplace environment. The objective is to enable a person

with disability to perform a job and enjoy equal employment opportunities. Accommodation is considered “reasonable” if they do not incur high cost or demands the level of efforts that the employers cannot provide.

Almost all respondents with disabilities consider needs for special modification in the workplace and needs for special assistive equipment as a barrier to their employment. All 120 respondents also reply that they were not asked or consulted regarding accommodation and/or adjustments that they may need. Less than 40% of the respondents report that modifications in the workplace, including special equipment, are provided.

Investment in “reasonable accommodation” is more likely to occur in larger companies and organisations. Out of 22 respondents who are employers, 20 persons report that arrangement that falls under the category of

reasonable accommodation is provided to their employees with disabilities.

Throughout the consultation process, OPDs and interviewees with disabilities emphasised the extremely limited understanding of the term reasonable accommodation of employers in private and public sectors.

### **Specific barriers depending on the type and level of disability**

Persons with hearing and visual impairment, or psychosocial disabilities, are less likely to find employment. The employers often develop negative attitude towards the employment of these groups due to high cost of reasonable accommodation, their lack of experience in managing and communicating with persons with disabilities, fear of negative reaction, and eventual loss of customers.

Access to employment is also contingent on the level or severity of disability. Persons with milder visual and hearing impairments are more likely to be employed in call centre and customer services than those with complete loss of vision or hearing. Persons with psychosocial disabilities have better chances of finding remote jobs thanks to their computer literacy skills. Their involvement with telework is also attributed to unwillingness and lack of experience of employers in accommodating members of this specific group.

### **Women with disabilities**

Women with disabilities struggle with multiple barriers and layers of discrimination based on gender, disability, level of education, skills, and poverty. The PDEA does not expressly address the needs of women and girls with disabilities.

According to the 2017 Disability survey, disability prevalence was higher in women (5.7 %) than men (5.2 %). However, the numbers of registered men with disabilities (male Disability ID card holders) were

**1,058,405 (52.20%),**

while the numbers of registered women with disabilities amounted to

**969,098 (47.80%).<sup>5</sup>**

This data suggested that women with disabilities were less likely to receive benefits attached to Disability ID cards as well as services from government such as those related to employment. Employment quotas for persons with

**COMMUTING IN SOUTHERN THAILAND**

**“it is very difficult for us who have physical impairment and live in rural areas”, a 45-years-old man with physical impairment stated. “It is hard for us to go out since there is no accessible public transportation available and the distance between places is extremely far.” “Southern part of Thailand is I think one of most difficult to travel. Roads are extremely rough, public transportations are limited, and safety is another issue.”**

<sup>5</sup> <http://dep.go.th/uploads/Docuents/61ccc2d9-8e3f-4f75-a361-368f5c6a4b80%E0%B8%A3%E0%B8%B2%E0%B8%A2%E0%B8%A5%E0%B8%B0%E0%B9%80%E0%B8%AD%E0%B8%B5%E0%B8%A2%E0%B8%94%E0%B8%82%E0%B9%89%E0%B8%AD%E0%B8%A1%E0%B8%B9%E0%B8%A5%E0%B8%84%E0%B8%99%E0%B8%9E%E0%B8%B4%E0%B8%81%E0%B8%B2%E0%B8%A3%20%E0%B8%A1%E0%B8%B5%E0%B8%8463.pdf>  
<sup>6</sup> [https://www.dep.go.th/images/uploads/files/situation\\_June64.pdf](https://www.dep.go.th/images/uploads/files/situation_June64.pdf)











disabilities as specified in Section 33 are not gender-sensitive.

In addition, women with disabilities were less likely to have access to education in comparison to their male counterparts. Only 1.7% of women with disabilities pursued higher education<sup>6</sup>, whereas 2.2% of men with

disabilities were enrolled in postsecondary institutions. The greatest discrepancy was found in secondary and vocational education: only 9.9% of women with disabilities had secondary education compared to 17.8% of their male peers<sup>7</sup>. As a result, they were considered as underskilled human resources; their income was often lower than the guaranteed minimum income.

### Education level structure of registered persons with disabilities according to gender at birth

Source: DEP (June 2021)

	Male	Female
Elementary school	 668.813 80% of total	 637.419 88.30% of total
Secondary school including vocational schools	 149.737 17.8% of total	 71.637 9.9% of total
University degree	 15.779 1.9% of total	 11.179 1.5% of total
Post graduate studies	 2.689 0.3% of total	 1.683 0.2% of total
<b>TOTAL</b>	837.018	721.918

Although Sections 33 and 35 address opportunities for fair and equal employment, women with disabilities tend to receive low-paying jobs in administrative services (notably document processing job), call centres, and cleaning services with little prospect for career advancement and on-the-job training. On the other hand, their male counterparts, particularly those with technical and specialised skills, are more likely to secure better paid jobs such as technicians in the manufacturing sector. Some employers are less likely to employ women with disabilities, as they are reluctant to shoulder additional costs of benefits related to maternal health and child care.

According to OPDs, families with female members with disabilities are more concerned with their safety during daily commute to work and travels during working hours than those with male members with disabilities. This situation has improved with the emergence of online transportation services with real-time location tracking such as GRAB. The families also have safety concerns regarding education and access to skill-learning; they are less likely to allow and facilitate women with disabilities' pursuit of education. According to OPDs, women with disabilities face

higher risk of psychological, physical, and sexual abuse in the workplace.

Challenges faced by women and girls with disabilities are recognised by the government. To address some of those issues, a 4-year Strategic Plan for Women with Disabilities (2018-2021) was instigated. This has four objectives: women's and girls' empowerment that enable them to exercise their fundamental rights and enjoy social welfare and public services, including employment; improvement of health and access to healthcare services; and the elimination of violence, harassment, and exploitation as well as strengthening of networks and organisations for women with disabilities.

<sup>7</sup> [https://www.dep.go.th/images/uploads/files/situation\\_June64.pdf](https://www.dep.go.th/images/uploads/files/situation_June64.pdf)

## Sections 33, 34, and 35 of the Persons with Disabilities Empowerment Act (amended) (2007)

The main sections of the PDEA that address the participation of persons with disabilities in economic life and employment are Sections 33, 34 and 35.

The texts of Sections 33, 34 and 35 of the PDEA are taken from the unofficial translation by Siam City Law Offices.<sup>8</sup>

**Section 33. For the purpose of the Empowerment of Persons with Disabilities, employers or owners of the enterprises and State Agencies shall employ Persons with Disabilities to work in suitable positions in proper proportions to the entire number of the employees in the enterprises or State Agencies. The Minister of labour shall issue Ministerial Regulations to specify numbers of employees with disabilities that the employers, owners of the enterprises and State Agencies shall employ.**

This section provides for the quota system for employment of persons with disabilities. Both private and public sector employers are obliged to hire one person with disability for every 100 employees in the establishments or State Agencies. While the quota system allows for increase in numbers of employees with disabilities and livelihoods, it may send a negative message that employment of persons with disabilities is merely an act of compliance with legal requirements, not a genuine recognition of person with disabilities' skills and their prospective contribution to the employers. However, according to the most recent trends, quota systems are regarded as a form of affirmative action in the framework of anti-discrimination legislation. Out of 22 employers surveyed, 21 people cite legal obligation as the main or one of the reasons that drives them to hire persons with disabilities.

The private sector employers who act in accordance with Section 33 will be able to claim tax deductions that equal a twofold amount of an annual salary.

Section 33 thus guarantees job security for persons with disabilities, opportunities for salary increase and career advancement as well as other welfare/benefits included in employers' packages.

**Section 34. Employers or owners of the enterprises who do not employ Persons with Disabilities at the proper proportions as prescribed in section 33 shall send money**

**to the Fund pursuant to section 24(5). The Minister of Labour shall issue Ministerial Regulations to specify the amount of money that the employers or owners of the enterprises shall send to the Fund. Employers or owners of the enterprises who are obliged to send money to the Fund as prescribed in paragraph one but failed to do so, or delayed in making payment or made an insufficient payment, shall pay interests at the rate of seven and a half percent per annum of the outstanding amount to the Fund. Employers or owners of the enterprises who employ Persons with Disabilities or send money to the Fund as prescribed in paragraph one shall be eligible for tax exemption at certain percent of the amount they pay as wages or salaries to employees with disabilities or of the amount they send to the Fund, as the case may be, as prescribed by the law.**

Section 34 provides a legal alternative to Section 33. It specifies that employers in the private sector who do not comply with Section 33 shall send fines to the Empowerment Fund, generally in the amount of minimum annual salary.

The private sector employers will be eligible for tax deductions that equal to the amount they send to the Fund.

As for the public sector employers, this section does not have legal force over them.

### Empowerment Fund

The Empowerment Fund's main source of revenue are the fines collected from the private sector, as prescribed in Section 34. While the financial details of the Fund's income could not be verified by the research team, data from DEP revealed that, in 2020, there were 15,224 vacancies in the private sector that were reserved for persons with disabilities. Among other things, 7969 vacancies in the quota system were left untaken. In 2020, the annual minimum salary was 112,420 Baht per person (daily minimum wage of 308 Baht \* 365 days)<sup>9</sup>. If this number is multiplied with 7969 (the total numbers of unfilled vacancies), the amount of the Fund's income from the collected fines in 2020 was 895,874,980 Baht (approximately USD 26,873,300). In addition, the fund also has other sources of income as described in Section 24 of the PDEA.

The Fund uses part of its revenues to cover the cost of administration (e.g. salaries of staff) while the rest is for funding of projects, usually proposed by OPDs, that benefit persons with disabilities, loans for persons with

<sup>8</sup> <http://law.m-society.go.th/law2016/uploads/lawfile/593114244ee36.pdf>

<sup>9</sup> Minimum salary may slightly vary from province to province



disabilities who need financial resources for business or accessible home adaptations, assistance to families, etc. The decisions regarding fund allocation are made by national or subnational sub-committees composed of members of government agencies (notably DEP and the Ministry of Labour) and OPDs.

**Section 35. In the event that any State Agency does not wish to employ Persons with Disabilities for work under section 33 or any employer or owner of the enterprise does not employ Persons with Disabilities for work under section 33 and does not wish to send money to the Fund under section 34, the said State Agency, employer or owner of the establishment may grant concessions, arrange places for distributing products or services, hire subcontract employees or hire employment services by special means, provide apprenticeship or equipment or facilities and sign language interpreter or other assistance to Persons with Disabilities or caregiver of Persons with Disabilities based on the criteria, procedures and conditions as prescribed by the Committee in the Rules.**

Section 35 is also supplementary to Section 33. It stipulates that, in lieu of following what is prescribed in Section 33, employers may assist persons with disabilities by providing grants for self-employment, apprenticeships, and training opportunities; hire them as subcontractors; and give support to facilities that fall under the management of local governments (e.g. health centres, schools, and administration). Lawmakers originally intended this section to allow persons with severe disabilities to stay at home while participating in economic life and earning income. Under Section 35, an employee contract has the duration of one year; the possibility of contractual renewal depends on the outcome from the evaluation of an employee's performance with disability and willingness of an employer. Employers may instead choose to comply with other sections of the law.

Under Section 35, self-employed persons with disabilities are required to produce semi-annual narrative and financial reports. Financial proposal is also required should they wish to apply for jobs. In terms of other modalities of Section 35 (e.g. stipends, apprenticeships, and trainings), candidates are required to submit different documents such as copies of vocational training certificates and education qualifications. Many persons with disabilities are employed in the public sector while their salaries are paid by private businesses. Thus, there is an element of public benefits. In actuality, persons with disabilities are often employed in

provinces where businesses that pay their salaries have no operation.

Section 35 also guarantees that the private sector employers are entitled to claim tax deductions in the amount of salary paid to an employee.

#### **Additional tax deductions**

## **DOTS COFFEE**

**Dots Coffee is a company founded by two social entrepreneurs who exclusively employ persons with visual impairment or blindness. Dots Coffee offers coffee with a takeaway option. All works, ranging from serving, handling of cash, opening and closing down, are carried out by blind or visually impaired persons with minimum investment in reasonable accommodation. The company has managed to leverage Section 35 to subsidize salaries for their employees who receive competitive salaries similar to other chain coffee shops in Bangkok. In addition, the company also provides salary top-ups. This cafe receives tax exemptions as more than 60% of the staff are persons with disabilities. It has secured rent-free location within the technology university. Making a degree of profits, the company plans to open two more locations.**

In order to stimulate the employment of persons with disabilities, additional tax deductions are available for employers who treat persons with disabilities as the core part of their workforce. If more than 60% of the workforce comprise persons with disabilities, the employers are entitled to claim tax deductions that equals a threefold amount of an employee's salary. Social entrepreneurs generally benefit from this measure. In addition, some examples prove that combining various benefits provided by the government can lead to profitable business (see text box).

## Implementation

Throughout the consultation process, there was agreement that the PDEA and Sections 33, 34 and 35 represented a good legislative framework for improving the lives of persons with disabilities, taking into account the current socio-economic and cultural context of Thailand such as education and skills levels of the majority of persons with disabilities.

However, challenges in the implementation of the law and sections 33, 34 and 35 have also emerged. For job seekers with disabilities, their chances of being employed depend on their connection with OPDs and/or matchmaking organisations, their relations with employers, their community status or personal connections.

The DEP was also praised, particularly for their openness, responsiveness, and willingness to listen and include OPDs in the implementation of the PDEA.

### Bureaucracy

Compliance with the PDEA entails extensive involvement with bureaucracy and costs for both employers and job applicants.

For employers, the most time-consuming, complicated, and costly process of employment is stipulated in Section 33. Apart from providing job description, employers are required to submit the following documents to the Department for Employment: 3 copies of registry license, proof of tax payment, and 3 copies of employment contract. In addition to the aforementioned documents, revenues forms must be submitted to the Department of Revenue as well.

Faced with significant amount of paperwork and an excessively lengthy process, many employers opt for Sections 34, which specifies that payment, generally in the amount of minimum annual salary, must be delivered to the Empowerment fund, ensuring their compliance with the PDEA.

Section 35 requires some efforts from job providers in public and private sectors. It entails the preparation for job description, a task that falls under the responsibility of job seekers but still requires approval from employers, and review and approval of narrative and financial proposals as well as semi-annual reports prepared by employees. Persons with disabilities often struggle with the preparation

of financial statements and plans. An OPD report that some persons with disabilities applied for employment under Section 35 with the help of their family members, who were also managing their income.

To comply with the law and reduce bureaucratic complicity, costs, and time, many employers choose to hire social enterprises, NGOs, and OPDs as intermediaries ('matchmakers') that take care of administrative work and paperwork. Difficulty in finding the job seekers who can fulfil job requirements is one of the reasons behind employees' reliance on intermediaries. The service requires an employer to pay for an intermediary. It has been reported that some intermediaries also charge persons with disabilities with "cost of document processing". Although the research team could not verify the fees, it is apparent that this practice is widespread.

### Application process

To apply for the jobs mentioned in the sections above, persons with disabilities have three options:

- 1 Apply directly with the employers (similar to job seekers without disability).
- 2 Use intermediaries (usually OPDs, NGOs, or organisation that match the employers and persons with disabilities).
- 3 Apply directly with the provincial offices of the Ministry of Labour and go through the administrative process by themselves.

In some cases, services provided by intermediaries include a small fee paid to the organisation; certain organisations and OPDs only charge employers, not persons with disabilities. Such fees cover transportation and documentation costs. Intermediaries assist in preparing the paperwork on behalf of persons with disabilities and referring them to the potential employers. Oftentimes a family member has to accompany the person with disability to an intermediary's office, increasing financial burdens on the family' side. OPDs consider such costs relatively high, especially for the low-income group.

Applying directly local offices of the Department of Employment involves:

- 1 Filling out and submitting an application form that is available as a hard copy at the local offices of the Ministry of Labour.

- 2 Providing a work plan and a break-down budget on how a potential employee will use minimum annual wage.<sup>10</sup>
- 3 Providing 3 copies of the national ID card and Disabilities ID card. (Note: the two documents are almost identical, using the same ID numbers and photos.)
- 4 Providing a photo of an applicant.

Direct application involves higher costs for job seekers such as transport costs for traveling to provincial government offices, and cost related to obtaining and copying documents and photos. In addition, lack of recommendation from a community or an OPD potentially limits the prospect of employment.

### Compliance with the quota

In general, employers in both public and private sectors struggle with compliance with the law, particularly Section 33. As mentioned above, this section requires administrative efforts from the employers' side. Generally, it is difficult to find a qualified person with disability to fill in the position. Employers also lack capacity to understand disability issues or provide reasonable accommodation. In addition, commuting to work disability creates a significant cost for employees with disabilities. Some have to move closer to their workplace.

Another issue is the identification of employers who must comply with the quota system. The provincial offices of the Ministry of Labour annually send information regarding companies with more than 100 employees in the workforce, based on data from the companies' registry, to the central office of the DEP in Bangkok. This is followed by the DEP informing the respective employer that it must comply with the Law in the next fiscal year. In addition, there is some confusion regarding the qualifications of the companies that can implement the quota system, particularly those with branches across the country. For example, some employers have more than 100 employees in their head quarter, but less than 100 employees in the branch offices, or vice versa. Under these circumstances, questions such as whether the persons with disabilities will be employed in the branch offices or headquarters, or whether the branch offices represent a entity separately, inevitably arise. This is particularly true for public sector employers who have employees at various subnational levels such as line ministries. One OPD reports that, in a province of their operation, there are around 500 members of the provincial administration and only 1 employee with dis-

ability. Looking at the provincial administration as a whole, 5 persons of disabilities are supposed to be employed in the establishment. However, members of the administration belong to different departments, thus this administrative office is compliant with the law.

In some cases, employers with more than one person with disability in their workforce choose the combination of options provided in Section 33, 34, and 35. For example, they can employ one person in accordance with Section 33 and pay a fine for other vacancies (Section 34).

### Fiscal year

If an employer wants to employ persons with disabilities (Sections 33 and 35), they must submit necessary information and job description to the government by December. The preparation needs to start much earlier, as it can take months for the government to process documents. A newly recruited employee will thus start working by January next year. In cases of renewal of contracts, the paperwork needs to be repeated annually. This process adds a burden to employers, as they are required to prepare documents in advance. Therefore, if employers employ more persons with disabilities during the year, they cannot do it under section 33 and section 35. This administrative requirement and lack of flexibility often discourage employers from hiring persons with disabilities. To comply with the law, they follow the course of action prescribed in Section 34 instead.

### Occupations and career path options

Persons with disabilities employed under sections 33 and 35 usually attain low-skilled and low-paying jobs that provide only the minimum wage. Under article 33, jobs for persons with disabilities are commonly found in house-keeping and cleaning services, food services, administrative sector, data processing services, call centre operation, and customers services. According to the survey, nearly half of the persons with disabilities attain such occupations, indicating limited opportunities for career advancement and pay raise.

According to the DEP and the majority of OPDs, women with disabilities are at a more disadvantageous position; they are likely to receive low-paying jobs such as works in the administrative sector, and call centres and cleaning services. In addition, they are less likely to receive promotion and pay raise. This is also true for persons who with visual and/or hearing impairment as well as psychosocial disability.

<sup>10</sup> 312 Baht \* 365 113,880 (this amount may vary in different provinces as the amount of minimum wage may be slightly different.)

In comparison to other sections, awareness on the Section 35 among employers is significantly low. However, it is important to note that this section offers various options for employers. Employers can support persons with disabilities who are lottery ticket sellers, masseurs, traditional singers, street vendors, or market stall owners by distributing places for them to sell their products and services. Employers can also employ persons with disabilities to do social work, such as being assistants in local schools or public health centres. Moreover, employers can provide a stipend in form of a salary to persons with disabilities who enrolled in trainings or educational courses. This may enable persons with disabilities to apply for better-paying jobs. Oftentimes, OPDs and matchmaking organisation use this section to employ their own staff. Some employers use this section to increase minimum salaries by providing market rate salaries for their employees. For example, employers may add money to the minimum salary to which persons with disabilities are entitled. Although section 35 provides many options for employers and can support persons with disabilities working in various industries, it cannot guarantee job security for persons with disabilities as mentioned earlier that the contract under section 35 is on a yearly basis.

### **Reasonable accommodation and accessibility in the workplace**

The private sector employers are increasingly prepared to invest in reasonable accommodation, particularly special assistive devices (hearing and visual devices) for employees working in administrative, data-processing, call centre, and customer services. Around 90% of employers who hire persons with disabilities state that they have invested in assistive devices (e.g. screen readers, magnifiers, and hearing aids), while around three quarters specify that such investment does not create a significant cost burden for their organisation. Respondents however report that a number of public institutions fail to provide reasonable accommodation that caters for persons with hearing and visual impairment. Lack of facilities undermines the performance of employees with disabilities and results in their resignations.

Every respondent with disability states that employers do not discuss the matter of reasonable accommodation with them, while half mention absence of reasonable accommodation in their workplace. The modification of job description or working hours is also not widely used; around half of respondent employees specifying difficulties in completing their tasks. This data suggests that most employers do not fully understand that reasonable

accommodation must be tailored to specific needs of individuals; the one-size-fit-all approach is unapplicable to such measures. Different persons with visual or hearing impairment may need different accommodation or assistive devices depending on levels of their impairment. Employers also fail to understand the importance of consultations from the employees with disabilities. This finding is confirmed by surveyed OPDs.

In terms of accessibility, daily commute to work represents the main challenge for persons with disabilities. Employers rarely provide for additional assistance (e.g. organised transport or extra financial subsidies for transport) for them. Costly and complicated commute to work causes many persons with disabilities to resign. Around half of respondents describe their commute to work as challenging or very difficult, while 30% describe this aspect of life as somewhat difficult.

In terms of physical accessibility, new construction projects and building have better accessibility, ramps and accessible toilets installed in different sites. However, the situation is different for older buildings. More than 50% of the respondents state that it is very difficult to use the toilet in their place of work, and nearly half face limitations in movement.

### **Discrimination and exclusion at the workplace**

One of the main challenges mentioned by OPDs and stakeholders is lack of attention of supervisors. Insufficient instructions and critical feedback, combined with limited on-the-job training, have led employees who often cannot deal with such environment to feel excluded and compelled to resign. Almost 88% of the respondents with disabilities feel that they are not part of the workplace activities. The vast majority of the respondents (86%) also feel that their opinions have not been heard or taken seriously by their supervisors and co-workers.

In addition, persons with disabilities do not feel welcomed by their peers without disability. More than half of the respondents with disabilities have experienced unfair treatment by the colleagues; they were “looked down” and paid less than their co-workers without disability who did the same amount of work.

### **Persons who have hearing or visual impairment, or psychosocial disability**

Persons who have hearing or visual impairment, or psychosocial disability, are the most vulnerable and discriminated when it comes to employment opportunities.

However, some companies in telecommunication and customer services have redoubled their efforts in providing opportunities and reasonable accommodation for those with milder health conditions. As mentioned before, the cost for reasonable accommodation (e.g. assistive visual and hearing devices) is somewhat higher for these groups. In addition, assistance must be tailored individually for persons with disabilities; each person with visual impairment may be in need of different devices such as specific font magnifiers for computers. In addition, employers need to increase the capacity of managers and supervisors responsible for managing and accommodating the employees with such disabilities.

Persons with hearing or visual loss are in a more disadvantageous position. According to OPDs representing deaf persons, occupations of this group are most commonly found in housekeeping services, food service industry, and administrative sector (e.g. file management). The main challenge for employees with hearing loss is communication with managers, supervisors, and co-workers without sign language interpreters. According to OPDs, persons with hearing loss work best in groups, as they are able to communicate and assist each other.

## VULCAN

**Vulcan is a start-up company focused mainly on artificial intelligence (AI) technology. The company provides training for persons with disabilities who participate in AI technology development and services. These products are then sold to companies that are interested in this area. Apart from providing salaries for persons with disabilities in accordance with Section 35, Vulkan introduces a profit-sharing scheme where 30% of profits go to persons with disabilities at the end of the year.**

Blind persons are in a particularly difficult position. They often land in jobs such as masseurs and traditional street singers, earning the amount of income that is only slightly higher than the minimum wage. One of the good examples is a coffee shop in downtown Bangkok where social entrepreneurs exclusively employ blind persons. The company gain benefits from the legislation (e.g. tax exemptions and subsidized salaries under section 35) and provide their employees with competitive salaries.

It is critical to note that the researchers were not able to interview OPDs representing persons with psychosocial disabilities or employers hiring them.

### Career path

Low-skilled jobs, lack of on-the-job training, and the sense of exclusion significantly limit options for career path of employed persons with disabilities in Thailand. Around 84% of the surveyed employees with disabilities report that their jobs do not provide opportunities for skill enhancement. Other feel that their employment does not provide any career development plans. However, 80 % of the respondents confirm that they receive pay rise after working for a period of time.

### Private sector

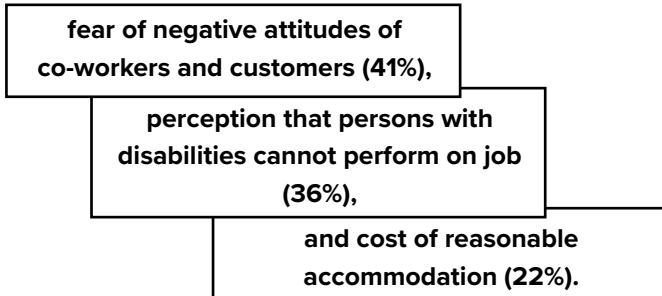
On a global scale, larger companies are more likely to employ persons with disabilities for several reasons. They are more likely to cover costs associated with hiring persons with disabilities (e.g. reasonable accommodation and health coverage) with more ease, develop core values and policies around disability (e.g. corporate social responsibility and HR policies), and train their staff in accommodating and managing this particular segment of the workforce.

In 2021, the DEP reported that there were 64,772 vacancies of works under Sections 33 and 35 that were reserved for persons with disabilities. However, 12,741 vacancies (19.67%) were unfilled. Instead, employers opted for Section 34 and paid the prescribed amounts to the Empowerment Fund. Although this high percentage can partly be attributed to complicated administrative procedures and associated costs, it is safe to say that cultural and societal misconceptions and stereotypes are one of the main reasons for the high level of reluctance to employ persons with disabilities in Thailand.

Certainly, the lack of appropriate education and skills makes persons with disabilities less employable and competitive on the job market. In addition, some companies feel that



having persons with disabilities in the workforce may negatively affect other non-disabled employees or customers. According to surveyed employers, the main reasons for certain businesses to refuse to employ persons with disabilities in Thailand are



Furthermore, in order to attain employment, persons with disabilities usually need to be referred either by government agency, OPDs or by personal recommendation (87% of employers requested referrals when hiring). As a result, chances of securing employment as person with disability by simply going through regular job application procedure are slim.

Out of 22 surveyed employers, less than 30% declare that they have HR policies that address the employment of persons with disabilities, while the rest feel that the current national legislation already provides for sufficient guidance in this area. Without internal procedures and policies in place as well as supervisors and managers trained to accommodate specific needs of persons with disabilities, decent employment of this particular group of the population will still be difficult to achieve.

Private sector awareness on the legislative framework (Sections 33, 34, and 35) is high, indicating that the quota system is implemented efficiently across the country. According to some stakeholders, awareness on the Section 35 is slightly lower.

**Public sector**

Apart from the DEP and the Ministry of Education, the research team was unable to talk to any public entity that employed persons with disabilities.

According to the DEP, in 2020, there were around 17,000 available positions under the quota system in the public sector; around 2,700 persons with disabilities were hired under Sections 33 and 35. More than 14000 vacancies (83%) were left unfilled. The implementation of the law in the public sector is hence more difficult as public

institutions are not eligible to use section 34 (payment to Empowerment fund). Although this provision is reasonable, as the application of section 34 means that public institutions would pay fines from taxpayers’ money, it nonetheless creates the situation where public entities can be non-compliant with the law without consequences.

The DEP endeavours to address these challenges by having constant dialogues with line ministries and administration at all levels. However, despite the DEP’s political influence and leverage in relations to other public institutions, the systemic solutions are not identified yet.

The public sector is less likely to invest in reasonable accommodation for several reasons. First, it is much more complicated for public entities to secure budget allocations for reasonable accommodation due to limited budget, procedural complexity of bureaucracy, strict budget planning procedures, and lack of capacity and sensitization of their staff to understand disability issues. The latter is especially true for the subnational authorities and branches of line ministries at provincial and district levels. While the DEP’s cooperation with the main counterpart in the implementation of the law (Ministry of Labour) already went smoothly at the national level, some OPDs suggest that such cooperation and coordination at subnational level needs improvement.

One of the main concerns raised by OPDs and persons with disabilities is the lack of training, experience, and capacity of civil service to accommodate persons with disabilities in the workplace. OPDs report that those employed in public sector lack proper supervision and critical feedback from their managers as well as opportunities for skill enhancement. They also feel isolated in the workplace. In addition, some persons with disabilities employed in public sector were reportedly not provided with reasonable accommodation, resulting in their inability to perform the job. Although employers did not dismiss them, they decided to resign nonetheless.

On the positive side, persons with disabilities regularly receive promotion and pay raise in public institution based on civil services rules.

## GETTING A LOAN

**a deaf person with university degree. Since I couldn't get a job, I decided to open a shop and request a loan from the bank. The bank personnel didn't want to talk to me even though I could communicate by writing on the paper. They requested for a "guardian" or a family member who could speak on my behalf. I gave up and decided to request a loan from Empowerment fund.**

### Access to finance

One of the main obstacles preventing persons with disabilities from having their own business is difficulties in getting a start-up capital and cash flow overdraft from the financial institutions, notably banks. The researchers were not in a position to evaluate persons with disabilities' access to microfinance schemes.

Persons with disabilities often have limited skills, confidence, and knowledge to go through complicated procedures and regulation for obtaining a bank loan. They also struggle with securing collaterals. It has been noted by some OPDs that banks will not even consider talking with persons with disabilities alone, and request persons to be accompanied by their "guardian", care-taker, or family member, before receiving loan application.

The alternative to bank loans is applying for loans with the Empowerment Fund. The procedure for processing the loan application with the Empowerment Fund is more disability-friendly. However, due to the numbers of documents needed and lengthy processing time, it is deemed extremely complicated, particularly for those persons without "financial" literacy. The loan from the Empowerment Fund is interest-free and the maximum amount is 120,000 Baht (around USD 3,620). First-time borrowers can receive 60,000 Bath in maximum. The decision on the loan approval is made by national or subnational sub-committees composed of members of government agencies, notably the DEP, the Ministry of Labour, and OPDs. However, successful applications often require applicants to secure recommendation from the community, government, or OPDs, and provide for "guarantors" (who needs to have stable income).

It is critical to note that the research team was unable to identify criteria for loan eligibility.

In order to apply for loan, the applicant must submit:

- a) 2 copies of a citizen ID card,
- b) 2 copies of a Disability card,
- c) copies of documents from guarantor's citizen ID card,
- d) an original copy of proof of guarantor's salary,
- e) break-down budget,
- f) photographic evidence of the business that applicant is currently doing, and
- g) proof that the applicant possesses necessary for running that business (e.g. a certificates from any related trainings).

## Informal employment

Informal employment is outside the scope of this analysis. However, it is estimated that the majority of persons with disabilities in Thailand work in the informal sector, mainly in agriculture and fisheries. The informal work represents economic activities that are not registered and recognised by official data and labour market statistics. It is also not covered by employment legislation. Consequently, any protection offered by the government, such as institutional and legislative measures, hardly ever covers the informal sector.

Persons with disabilities employed in the informal economy usually work in small-scale agriculture production (on their own land or land owned by their family), sell agricultural products on markets, work as street vendors, and take care of household chores or family-owned shops and businesses. The informal sector also includes those working as sex workers, independent masseurs or service providers in unregistered massage parlours, or staff in the entertainment industry.

Hence, persons with disabilities in informal sector are often engaged in unpaid forms of employment and thus may not receive salaries for their work, except minimum covering of their basic needs. Limited income hampers their independence and quality of life. During the consultation, it was revealed that persons with disabilities rarely inherited or owned land, as their parents usually transferred property rights to their children without disabilities.

The employment of persons with disabilities in the informal economy should be a subject of a separate study, as serious engagement with this issue will help us understand the way persons with disabilities earn income, contribute to economy, and explore opportunities to enter into the formal economy.

### Marginalised groups

Facing discrimination on multiple basis, the marginalised groups are the most vulnerable segment of persons with disabilities. Further analysis and assistance are extremely needed.

The researchers were unable to conduct more in-depth analysis of the most marginalised groups of persons with disabilities in Thailand (e.g. sex workers, massage parlours workers, people living with HIV, LGBTI+ people, and stateless persons) due to restrictions, limitations and

circumstances around the time this study was conducted.

However, researchers were able to interview “SWING Foundation”, an NGO which provided assistance to sex workers and other marginalised groups. One of the beneficiaries of this assistance is a group of transgender sex workers who are deaf or hearing-impaired. Although sex work is prevalent in Thailand, it is criminalized by the law and punishable through fines. In some cases, sex workers are sentenced to prison. This group is especially in a difficult position due to multiple levels of discrimination and vulnerabilities arising from their gender, their disability, type of work, poverty, inability to access social services, and risk of violence.

Sex workers with disabilities face discrimination and violence within their families due to their gender, lifestyle, and disability. They are usually forced to leave their homes under dire circumstances with no income or savings, falling under constant risks of violence and harassment from their family members despite their financial contribution to the family. Many sex workers with disabilities lack knowledge of sign language, preventing them from communicating or accessing information. Living in a group is beneficial to their everyday living, as they can assist each other.

For those with knowledge of sign language, everyday communication remains extremely difficult as the general population lacks sign language literacy. This issue prevents sex workers with disabilities from making work-related negotiations, working under safer conditions, and attaining a degree of protection, care, and comfort. Instead, they are forced to work and find their customers on the streets, significantly increasing the risks of becoming victims of violence, being arrested, or endangering their health. SWING Foundation has praised UNDP Thailand for their role in raising awareness on the rights of sex workers with disabilities. Thanks to support from UNDP, SWING Foundation has assisted sex workers with disabilities in creating self-help network and enhancing their access to healthcare and justice by providing sign interpreters in courts. Cooperation with the Ministries of Health and Justice also elicit praises. The vulnerability of this particular group is particularly evident during the COVID-19 pandemic. Faced with loss of income and customers, they are forced to navigate the society with many challenges, as most of them live under the “radar” of society, unregistered and hence ineligible for emergency assistance provided by the government.



## Impact of COVID-19

At the time this study conducted, the Kingdom of Thailand, like the rest of Southeast Asia, was hit by the worst wave of the pandemic, with daily registered infections surpassing 20,000 cases and daily deaths reportedly above 200. Under this circumstance, the government introduced counter-COVID measurements that included restriction of movement, which in turn imposed limitations on economic activities.

The COVID-19 pandemic has the most profound impact on livelihoods and economic security of the whole Thai population, including persons with disabilities. Persons with disabilities are even disproportionately affected by the pandemic, as expenditures related to their disability increase. Faced with loss of income, persons with disabilities and their families struggle to pay for health, rehabilitation service, or transport to focal points of services, as fewer transport options are available.

With businesses and government working in “emergency and survival” mode to cope with the crisis, even less attention has been given to the wellbeing of persons with disabilities and inclusive workplace. The tourism sector has been hit the hardest with many persons with disabilities working in this sector (e.g. housekeepers, hotel staff, and tour guides) losing their jobs.

Self-employed persons with disabilities or business owners are facing losses of customers, due to restrictions, and market to sell their products. With lower income, it is increasingly difficult to cover the costs including rent, interests, and repaying on their loans.

Impact on livelihoods was particularly severe for those working in the informal sector and for marginalised groups such as the LGBTI community, sex workers, and migrant workers, as they are less likely to benefit from the government run schemes of assistance aimed at mitigating the COVID-19 impact. For instance, transgender sex workers who are deaf do not earn income due to loss of customers, leading to difficulties in paying for basic needs (e.g. rent, food, and medicine). Furthermore, they are unable to access any support from government social security schemes, including safety kits. This community is currently assisted by SWING Foundation. It must be noted that many people do not have the support they need.

The COVID-19 pandemic also affected the mental health and wellbeing of many persons with disabilities in Thailand. Persons with disabilities are afraid to go out into their community for fear of infection. Economic uncertainty and increased vulnerability as a result of diminished income has negative impact on mental health, deepening the idea that they are a burden to their family and community. Isolation and loneliness have increased levels of stress and anxiety of persons with disabilities.

The COVID-19 pandemic and attendant restrictions have also disrupted and affected education and skills development of persons with disabilities. As mentioned above, many persons with disabilities have little to no access to IT devices, smartphones, and remote learning tools. Limited internet availability, particularly in rural areas, hinders educational and skill enhancement opportunities even further. Research on technology and justice shows that digital divide emerges as a global phenomenon. Women with disability have less access to IT devices and technology than male counterparts. For this study, the research team was not able to obtain data for Thailand to support this claim. However, based on other parameters, this seems to be reasonable assumption.

Limited access to critical information on COVID-19 for persons with multiple disabilities (hearing and visual impairment, and psychosocial disability) and those living in rural areas is another major challenge during the pandemic.

## PART 2 -RECOMMENDATIONS OF MEASURES FOR IMPROVING DISABILITY INCLUSIVE WORKPLACE IN PUBLIC AND PRIVATE SECTORS IN THAILAND

In this section, the researchers will provide practical and policy recommendations for the government and the private sector with regard to fostering an inclusive workplace and meaningful employment of persons with disabilities, along with recommendations of actions for disability-inclusive COVID-19 crisis recovery.

### The employment quota system in Thailand compared to other countries

Quota systems are the most commonly used approach aimed at promoting employment of persons with disabilities implemented in more than 100 countries around the world. Some countries, most notably Ireland, opt for “equal opportunity” approach, based on anti-discrimination laws. This approach includes positive action measures to promote the right to work of persons with disabilities and statutory targets for employment (mainly in the public sector). There is a plethora of discussions on whether quota systems further underpin negative stereotypes that employment of persons with disabilities is merely an act of compliance with legal requirements, not a genuine recognition of person with disabilities’ skills and their prospective contribution to employers.

It is worth noticing that the “bar” for the quota of employed persons with disabilities in Thailand (1%) is the lowest in comparison to other countries with quota systems (e.g. 6 % in France, 6 % in Spain, 1.5% in China). In other countries, the numbers of the employees with disabilities are also proportional to the size of the employer.

In addition, many countries introduced different quota requirement for both public and private sectors. In Japan, for instance, the minimum percentage of persons with disabilities employed in the private and public sectors is 2% and 2.3% respectively. In Cambodia, the minimum percentage for the private and public sectors increases

to 2% and 3%. Requirements for the public sector are also higher. Some countries only have quota systems in the public sector. The idea here is that the government should lead the way when it comes to employment of persons with disabilities.

During the whole consultation process, there was general agreement among stakeholders that the PDEA represented a significant milestone in the promotion of the rights of persons with disabilities in Thailand, including the right to work. It is widely accepted that the law is a good legislative framework that also considers the current socio-economic and cultural context in Thailand.

However, the implementation of the PDEA has been challenging and may have diverted from the original intention of the lawmakers. Particularly worrisome is the lack of implementation of the PDEA in the public sphere. This is an issue faced by many countries that implement quota systems. For the sake of equal treatment and credibility, the government should primarily focus on enforcing the quota requirement on employers in both public and private sectors. This action would require more political support and leadership. Although the work of the DEP has a far-reaching impact across the country, described by many as responsive, efficient, open to suggestions, and inclusive of opinions of OPDs, the department still lacks “political power and might” to lead the systemic changes that will bring disability inclusion to Thai society.

The following section aims to provide some practical recommendations that factor in current political, economic and development environments in Thailand, ensuring its applicableness to the society. However, while some recommendations might be easily applicable, some may require a significant amount of financial resources. The implementation of certain recommendations may be contingent on the current economic and financial capabilities of stakeholders (e.g. the government, OPDs,

the private sector) as well as adopted strategies.

## CARROT AND STICK

**“It’s very difficult for me to entertain private businesses to employ persons with disabilities. I wish the Disability law is somewhat more rewarding than punitive”**

– Provincial official

### General recommendations

#### Partnership with private sector

To make significant and more sustainable gains in employment of the persons with disabilities, additional efforts in securing real partnership with private sector are required. It is recommended that the private sector takes part in the decision-making process in policy making and financing. Examples include stimulative measures such as offering of employment support services (e.g. technical advice and trainings on reasonable accommodation, accessibility audits, employee placements, and support services in the workplace), subsidies for reasonable accommodation investments, and favourable treatment in public procurement process.

For the private sector, the PDEA may be perceived as “imposed tax/levy”, while the implementation of such law in the public sector is minimal. It is in the nature of private businesses to find the way around of imposed measures and opt for the easiest and least costly modalities of compliance. The introduction of incentives and stimulations is essential to the private sector. Countries with more success in disability-inclusive employment have combined quota systems with employment support services to address some of the difficulties faced by the private sector in employing persons with disabilities (see recommendations).

#### Inclusion of Organisations of Persons with Disabilities (OPDs)

While significant progress has been made in this area, there is still a long way to go. Persons with disabilities and their organisations need to be included in wider discussions regarding policy formulation and implementation. Apart from the DEP or the DOE, the pools of partners and stakeholders involved in this process are expected to be further expanded. Voices of OPDs must be heard and considered during the decision-making process. This is true for both public and private actors, academia, chambers of commerce, trade unions, professional associations, and so forth. OPDs are encouraged to be more proactive in establishing partnerships with private actors that are not involved with the government. One of the most telling results from the mini survey is that, out of 120 respondents, not a single person with disability has been consulted when it comes to providing reasonable accommodation.

### Barriers to entry

#### Address stigma and discrimination

In the concluding observations on initial report from Thailand (2016), the UN Committee on the Rights of Persons with Disabilities found “persisting negative attitudes, stereotypes and prejudices against persons with disabilities”.

This is one of the greatest barriers faced by job seekers with disabilities around the world. Addressing this systemic challenge requires joint effort of the government, OPDs, the private sector, academia, and other stakeholders, who are required to change their mind sets, approaches, practices, systems, plans, and programmes related to disability.

#### Recommendation 1

Awareness-raising campaigns through various media channels. Targeting private and public sector employers, such campaigns must adopt the human rights model of disability in order to mitigate negative stereotypes and prejudices towards persons with disabilities. They should include affirmative stories about successful practices of employment of persons with disabilities from Thailand and abroad. This information can be distributed via government bulletins, social media pages, companies’ website, or platforms of the Chamber of Commerce.

**Recommendation 2**

The development and introduction of training modules for public officials at the managerial level to reinforce understanding and the implementation of the human rights model of disability in employment. The training should be mandatory for officials who are directly responsible for disability issues (e.g. officials from the DEP and the DOE at provincial and national level). The passing of examinations could be set as requirement for promotion, renewal of contract, or pay rise. To save time and costs, State agencies can provide mandatory online courses, followed by the exam, similar to the learning model adopted by UNDP. As part of the support services, the courses should be optional for other employees and the private sector.

**Promote employment of women with disabilities**

The quota system in Thailand is not gender-sensitive. Although the research team was not able to obtain gender-disaggregated data for employment under Sections 33 and 35, it is extremely likely that women with disabilities are less represented in the workforce than their male counterpart. This assumption arises from in-depth interviews and focus groups discussions during the consultation process.

When it comes to employment of women with disabilities, special provisions addressing this issue is a rarity, the PDEA is not an exception. According to one of the informants, the word “women” does not appear in PDEA at all.

**Recommendation 3**

The DEP should make provisions for collection of disaggregated data as a means to monitor gender equality in the employment of persons with disabilities. If needed, the agency should consider corrective actions. This proposed course of action does not require significant efforts, as the DEP has efficiently and proactively collected and published employment data.

**Recommendation 4**

To further stimulate employment of women with disabilities who face additional difficulties in finding jobs, amendments regarding the current quota system and the evaluation of compliance with the law, such as the introduction of double or weighted counting, could be made.

Considering difficulties in implementing existing provisions, such action may require special investments in human resources.

**Recommendation 5**

Analysis of the PDEA, amendment of law, and the introduction of additional sub-decrees are mandatory. Such courses of action could address special needs of women with disabilities and stimulate employment of women with disabilities.

**Bureaucracy**

One of the main challenges of job seekers is bureaucracy and costs attached to job application. As for employers, they avoid the lengthy and paper-intensive process by following the course of action prescribed in Section 34, as it is considered to be the least bureaucratic option.

**Recommendation 6**

Conduct in-depth analysis of the current practices and bottlenecks with regards to required documents during the job application process, the employment of a person with disability under Sections 33 and 35), or renewal of contract. A set of recommendations for streamlining the application process will be needed. This action must be carried out in line with the digitalisation of state administration. Regular utilization of online applications is also highly suggested.

From employers' perspective, the fiscal year requirement for Sections 33 and 35 is another major barrier. As the starting date for newly employed persons with disabilities is January, all the necessary documents need to be submitted, finalised, and processed before the end of the year. This requirement prevents employers from hiring potential candidates throughout the year.

**Recommendation 7**

Review the aforementioned policy and make provisions for employment of persons with disabilities throughout the year. This recommendation will require a certain degree of adjustments in planning, budgeting, reporting, accounting systems, and processes of the respective government agencies.

**Enhance education and vocational skills of persons with disabilities**

The COVID 19 pandemic increases not only the share of the digital economy globally but also the demand for digitally skilled workforce. This phenomenon represents an opportunity to overcome barriers for persons with disabilities such as skill mismatch. Acquiring digital skills can help persons with disabilities secure decent and well-paying jobs. In addition, digital economy provides opportunities to

work remotely for persons with severe disabilities, those with difficulties related to mobility, or those who prefer to stay at home or close to their communities. The companies in the digital economy also tend to have more inclusive working environment and policies. Employers are more willing to invest in reasonable accommodation. It is important to note that the researchers did not have an opportunity to interview any officials from the Ministry of Digital Economy and Society.

The difference between Vocational training centres and Technical and Vocational Education and Training (TVET) centres is the focus of education and trainings provided. Vocational training centres usually focus on practical skills needed in a particular industry such as manufacturing, construction, or more traditional skills (e.g. handicrafts and weaving for women). Inadequate options limit career path options and opportunities for professional advancement. As for TVET centres, such institutions focus on the practical side of education, revolving around technology, IT development, and digital information. This structure of learning provides for greater career choices, innovations, and career paths.

### **Recommendation 8**

Fund and open specialised TVET centres for persons with disabilities. This recommendation can be realized with the establishment of partnership between the government, OPDs, academia, and the private sector. Alternatively, support can be provided to existing TVET centres, improving accessibility for persons with disabilities at lower cost. It is highly recommended to make adjustments regarding the institution's infrastructure, provision of reasonable accommodation, methodologies and skills of teaching staff, and provision stipends for students who apply under Section 35. The main target group should be youth with disabilities who are digitally proficient.

### **Recommendation 9**

Conduct labour market research and consider the possibility of opening vocational training centres based on the industry's projected needs, or improving accessibility of such institutions, with focus given to geographical areas with lower employment rates of persons with disabilities.

As a consequence of COVID 19, many self-employed persons with disabilities and those working in the informal sector have suffered from closure of markets, where they can sell their products and services.

### **Recommendation 10**

Make provisions for financing the Empowerment fund's project that aim to create digital markets for selling products and services and promoting innovations.

# IMPLEMENTATION OF THE SECTIONS 33, 34, AND 35

Employment under Section 33 is the most desirable form of livelihood for persons with disabilities as it guarantees decent jobs, better pay, greater job security, and benefits offered by employers, and career path.

Hence, the decision makers should focus on maximisation of employment under this section.

### Implementation in the public sector

In 2021, there were around 17,000 available positions under the quota system in the public sector. Around 2700 persons with disabilities were hired under Sections 33 and 35. More than 14,000 vacancies (84%) were left unfilled. As Section 34 (payment to the Empowerment Fund) is not applied to public entities, mechanisms to implement the law in the public sphere is still missing. While this challenge is present in almost all countries that implement the quota systems, the degree of enforcement of the quota depends on a legislative framework of each country, accountability and transparency mechanisms, corporate culture within the civil services, and government priorities. There are very few examples of effective solutions which can be applied to the current context of Thailand.

### Recommendation 11

The creation of Disability Action Working Groups (DAWG) in line ministries. This group would set annual targets and oversee the implementation of the quota system in their respective ministries and portfolios on national and subnational levels. The DAWGs should consist of senior officials of the respective Ministries and government agencies. Semi-annual meetings to review progress are required. The similar approach was introduced in Cambodia. Success could be seen in certain line ministries; however, the level of accomplishment was dependent on the leadership of the officials in charge.

### Recommendation 12

The establishment a mechanism to regularly monitor and report the degree to which public and private sectors meet the set quota for the employment of persons with disabilities.

### Recommendation 13

Annual distribution of a list of public institutions and numbers of positions filled. If data is disclosed to the public, institutions that do not comply with the law and implement the quota system may face public scrutiny. This pressure may result in changes in their attitudes towards the employment of people with disabilities. A similar system has been implemented in Japan. In order to realize this recommendation, data should be published by more senior government official or a governmental body (e.g. a sub-committee) as to avoid political and inter-ministerial disputes. More compliant and successful public entities should be recognised.

In some countries, public institutions face financial penalties for non-compliance with various laws (e.g. disability quota and access to information.) However, this practice is difficult to implement due to the fact that public entities pay fines from the budget (taxpayers' money) and are not commonly held accountable. In addition, it is difficult to create mechanisms for such schemes as line ministries cannot enforce fines on other line ministries or government agencies. They are required to go through courts or contact independent bodies (e.g. ombudsperson). The one benefit of such arrangement in Thailand would be increase in revenues of the Empowerment Fund.

### Implementation of Section 34

In 2021, according to the DEP, there were 12,741 or 19.67% of vacancies under the quota system of the PDEA that private sector employers opted for Section 34 (delivery of payment to the Empowerment fund) in lieu of employing persons with disabilities under Sections 33 or 35. From a strictly financial perspective, and in light of stigma, discrimination, cultural and societal misconceptions about persons with disabilities in Thailand, Section 34 represents the “easiest” way to comply with the PDEA. It is perceived as a business expense that will return to employers in form of tax exemption. The process reduce a significant amount of administrative work and efforts, notably working hours, of the employers. The business expense and tax benefits are identical to those prescribed in Section 35, but selection



of candidates submission of paperwork to authorities, and review of reports are no longer mandatory.

Although Section 34 represents a significant source of income for the Empowerment Fund (estimated to approximately USD 27 million in 2020), and collected payment is used to fund various disability initiatives, projects, and OPDs<sup>11</sup>, it is clearly one of the barriers to meaningful employment of persons with disabilities, and thus needs to be amended.

#### **Recommendation 14**

In addition to payment in the amount of annual minimum wage, non-deductible levy should be imposed upon the employers. The amount of levy should increase every year, in case employers still opt for Section 34. To avoid adverse effect and pushback from the private sector, which already faces various legal obligations in comparison to the public sector which hardly shows compliance with the PDEA, increase in levy should be incremental. Each year, the amount of levy that equals a 20% increase from annual minimum wage can be raised by 5% should the employers insist on using Section 34. This recommendation aims for more employment under Sections 33 and 35 or increased revenues for the Empowerment Fund.

Japan and South Korea also use the similar models. In Japan, a strict monthly penalty for non-compliance is implemented while Korean employers are required to pay non-deductible levy in the amount of 60% increase from the annual minimum wage. However, both countries have a long history of promoting employment of persons with disabilities, supported by strong state administration. They have experiences in testing various solutions and adjusting them to societal contexts. The research team is of opinion that Thailand should use more cautious and gradual approach.

#### **Implementation of Section 35**

As mentioned in the situation analysis part, the original intention of Section 35 is to provide employment opportunities for persons with severe disabilities while allowing them to stay at home, participate in economic life, and receive income. In practice, Section 35 has a variety of modalities, including self-employment, subcontracting, stipends, apprenticeships, trainings, and assistance to caregiver of Persons with Disabilities.

During the consultation process, persons with disabilities and OPDs had favourable opinion of Section 35. The benefits stemmed from this Section include greater flexibility (e.g. possibility of securing more income for

self-employed), ability to remain close to home and community, and reduction in transportation costs. On the negative side, jobs under Section 35 put persons with disabilities in a precarious position. Contracts are subjected to yearly renewal and employers' will. While jobs are already low-paying, supervisors also show little interest in workers hired under Section 35. The paperwork needed was described as bureaucratic and costly, limiting career paths of workers. In addition, the eligibility and criteria for securing a job under this modality is not very transparent as it relies mostly on matchmaking organisations (including OPDs), applicants' relationship with employers, and recommendations from OPDs or the community, all of which can be inaccessible to persons with disabilities who have lower income, lack influential contacts, or are not members of OPDs).

#### **Recommendation 15**

Review the current practices through in-depth study and analysis and streamline the application of options under Section 35 for both public and private employers. It is opinion of the research team that the priority should be given to job seekers with more severe disabilities, and enhancement of the skills of persons with disabilities in accordance with labour market demands (e.g. TVET).

#### **Recommendation 16**

The public sector should create guidelines on the utilisation of Section 35. It should be focused on potential future benefits of the public entities, such as provision of trainings, apprenticeships for employees who can later be fully employed under Section 33, subcontracting goods and services usually procured by the public entities.

<sup>11</sup> Some OPDs have employed persons with disabilities using financial support from the Empowerment Fund.

# ADDITIONAL INCENTIVES

To further stimulate the employment of persons with disabilities in both private and public sectors, additional incentives in support of the existing quota system are needed.

## **Recommendation 17**

Introduce further incentives such as partial or full subsidies of expenditures related to reasonable accommodation for employees with disabilities in the private sector, and procurement of assistive devices and equipment.

In Thailand, public institutions can apply for funds from the Empowerment Fund. The research team could not confirm whether such practice is doable for private employers. However, it is not a systemic solution because employers' willingness to apply for funds and subsequent approval from the subcommittees are a requisite.

## **Recommendation 18**

Enable certain public entities (e.g. the Ministry of Social Development and Human Security or the DEP) to give preferential treatment to contractors the public procurement process.

## **Recommendation 19**

Establish or upgrade the "Employer of the year award" on national and provincial levels. This is intended for private and public employers who ensure best practices in the employment of persons with disabilities. Such awards should be presented at high-level annual gatherings events. Participation of celebrities could attract wider audiences. Selection of awardees should be based on the previously determined criteria with predominant participation and decision of OPDs.

The system of awards already exists in Thailand, as they are presented to successful enterprises on the International Day of Persons with Disabilities (December 3rd). However, according to OPDs, such events lack publicity, unable to attract attention from wider audiences. Similar practice exists in the Czech Republic, where annual awards for the employers who implement successful practices of employment of persons with disabilities are presented by Minister of Industry. In Serbia, the awards for most transparent Ministry, agency or municipality are used to stimulate financial transparency of State agencies.

## **Recommendation 20**

The introduction of financial incentives for employment of women with disabilities and most marginalized groups of persons with disabilities in form of further tax exemption and subsidies

In South Korea, employers who hire women with disabilities are provided with additional incentives (e.g. subsidies and grants) than those who hire men with disabilities. In Albania, the government subsidies women with disability mandatory insurance on behalf of employer, along with other groups of disadvantaged women and girls.



# EMPLOYMENT SUPPORT SERVICES

Although the quota system helps increase employment rates of persons with disabilities, its effects are limited. Provision of employment support services for labour market, in combination with the quota system, has proven to be much more effective, particularly in Europe and developed countries. However, this success depends on the financial capability of the state actors and main stakeholders.

## **Recommendation 21**

Introduce provision of the support services to both private and public sector, including technical advice and trainings on reasonable accommodation, accessibility audits, employee placements, and support service at the workplace. This should be done in cooperation with OPDs.

In many countries, such services are fully or partly subsidised by the state or Disability funds, an equivalent of the Empowerment Fund. As a result, the employers receive such services for free or with reduced costs. To establish connection with labour market requirements, private sector, in addition to Government and OPDs, should be involved in designing, managing, and funding such support services.

During the research, several interviewees pointed out the limited capacity of the provincial offices of the DEP and the DOE in dealing with employment of persons with disabilities as well as lack of coordination between the two entities, resulting in job seekers with disabilities being sent back and forth between the two offices. As local officials from the DOE usually work with all job seekers, they may lack the capacity, sensitisation, and understanding of how to properly address the specific issues faced by persons with disabilities.

## **Recommendation 22**

Tailor the services in job centres for persons with disabilities. This is doable through enhanced training, sensitisation of current staff, appointment of additional staff to specifically support persons with disabilities. The implementation of this recommendation will save time and cost for job seekers, limiting the influence of matchmaking organisations. However, it might require some investment in human resources

# UNDP OPPORTUNITIES

Persons with disabilities were recognised as “active contributing members of society” in the 2030 Agenda for Sustainable Development Goals (SDGs). Out of 169 targets across 17 SDGs, seven targets have specific reference to Persons with disabilities. In addition, all goals and respective targets are inclusive of Persons with disabilities as they apply for all persons under the principle “leave no one behind”. UNCRPD remains one of the most powerful tools which should guide the implementation of SDGs and ensure that all barriers that lead to discrimination, exclusion and inequality are removed. The issue of disabilities should approach both directly and through mainstreaming across all policies and programmes. This is particularly true in UNDP’s work in environment sector and risk reduction and preparedness where globally very limited attention has been given to mainstreaming disabilities.

Disability rights are usually the “least politically sensitive” segment on human rights agenda and governments are usually most willing to commit and deliver in this area. In other words, “disability rights” are a good entry point for further work on human rights.

UNDP’s comparative advantage lies in its convening power. When it comes to employment of persons with disabilities, UNDP could be the facilitator of “constituency building” and strengthening partnerships between Government, OPDs, private sector and academia, which is essential for improving employment of this segment of population. In addition, UNDP is seen as impartial partner who can provide technical advice in revision of policies and practices as well as in capacity development. UNDP can also be a good potential partner for improving the employment of persons with disabilities in public sector through its governance work as well as in empowerment of women with disabilities.

UNDP should continue providing support to most vulnerable groups of persons with disabilities (LGBTI, Sex workers, migrants etc.) Under the principle “leave no one behind”. Previous support in this area although small was much appreciated by participating partners and had catalytic effect -it helped civil society to sensitize the government about the issues facing most marginalized groups and led to some concrete improvements in reducing discrimination and providing services.

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## United Nations Development Programme Thailand

14th Floor United Nations Building  
Rajadamnern Nok Avenue  
Bangkok 10200, Thailand  
Email: [undp.thailand@undp.org](mailto:undp.thailand@undp.org)  
Tel: +66 2 288 3350



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