

Thailand National Report on Legal Aids

(2014 International Forum On Legal Aid in Taipei,Taiwan)

Office of Law Reform Commission of Thailand

1.Please Provide the following country information

Country : Thailand

Legal Aid Organization Name : The Office of Law Reform Commission of Thailand
(On Legal Aids Project under Justice Reform Commission)

Date of Establishment : 12th May 2011

Proverty Line & Percentage of Population in Poverty : 2,422 THB (US\$ 78.12/person/month)¹

Total No.of Practising Lawyers and Legal Aid Lawyers (Including in-house and Private practice) : n/a

Population : 64,871,000²

GDP : 7.7³

Total No of applications received in the past year : n/a

Total No of applications approved in the past year : n/a

Total No. Of applications Refused in the past year : n/a

2.please describe the main provider(s) of legal aid services in your country

¹ The present poverty line as of 2011 data published by the Office of National Economic and Social Development Board, which is in the current circulation, revised on 1st March 2013, published by the the Office of National Economic and Social Development Board, consulted at <http://social.nesdb.go.th/SocialStat/StatReport_Final.aspx?reportid=490&template=1R1C&yeartype=M&subcatid=71>

² Thai population in 2014, at mid-year estimation in 2014 (1 July 2014) http://www.ipsr.mahidol.ac.th/ipsr-th/population_thai.html

³ Data from the fourth quarter 2013 by the Office of National Economic and Social Development Board

(a) what is the nature of the provider's organization (ie, a government department, an independent statutory body or association)?

The following organizations/agencies from state sector and civil society sector have a mission or work to provide legal aid to people.

1. State Sector

1.1. The Office of the Court of Justice, disseminates legal knowledge among the people, provides legal aid either by organizing a lawyer or a legal counsellors to individuals in need and provide subsidies for litigation costs.

1.2. The Office of The Department of People's Rights Protection and Legal Aid, the Office of the Attorney General provides judicial related services to the public as prescribed by law to be under the authority of and under the duties of public prosecutors. The services involve cases, in which the Civil and Commercial Code stipulates that it shall be under the authority of public prosecutors, i.e. an application to the court to appoint a trustee. The office also assists and provide legal advices on contracts and legal transaction for the poor and provides arbitrations and dispute resolution services for amendable civil and criminal offenses. The assistances will to take into account the status of each individual on case by case basis.

1.3.The Lawyer Council of Thailand disseminate legal related knowledge and provide legal assistance by counseling or recommendation services to the people. Moreover, the Lawyer Council of Thailand also disseminates legal knowledge , provides legal counseling or recommendation services, helps with legal transactions and contract drafting and provide lawyers for litigation for the poor who are suffering injustice.

1.4. The Rights and Liberties Protection Department, Ministry of Justice provides protection of people's rights and liberties by educating legal knowledge, conflict management and and community dispute resolutions. The Department also provides legal

counseling, receive complaints, and protects accused persons' rights in criminal investigation under the virtue of Section 134/1 of the Criminal Code.

2. Legal Aid Services by Universities

2.1. Faculty of Law Center, Faculty of Law, Thammasat University;

2.2. Legal Counseling Center, Faculty of Law, Chiang Mai University;

2.3. Law Student Volunteers Training Center, Faculty of Law, Khon Kaen University;

2.4. Legal Clinic, College of Politics and Governance, Mahasarakham University;

2.5. Legal Aid for People Project, Faculty of Law, Thaksin University;

2.6. Legal Aid for People Center, Faculty of Law, Prince of Songkla University.

Legal aid services by universities focuses on providing knowledge and counseling. Only at Faculty of Law Center, Faculty of Law, Thammasat University has standing lawyers to proceed legal cases.

3. Legal aid provided by civil society sector, as non-profit foundation provides specific assistances for very vulnerable groups of people such as children, youth and including women in cases of domestic violence or sexual offenses, the migrants, the stateless residents living in the Kingdom of Thailand. They also conduct litigation for public interests, such as the case of natural resources and the environment cases, where the condition of the dispute cases a risk to public or the people at large and cases of human rights offenses that state officials are the other party to the litigations.

(b) If supervised by another authority, how does the provider maintain independence in decision-making and in carrying out its duties and responsibilities?

n/a

3. Please describe the legal aid organization and the recent business figures :

(a) Organizational structure. : n/a

(b) Analysis of the matter types aided in the part year. : n/a

(c) What is the number and percentage of case conducted by in-house/staff attorneys and legal aid lawyers in private practice? : n/a

4. Please describe your country's (or organization) legal aid funding arrangements :

(a) What are the source and amount of legal aid funding? Are there caps on annual spending?

The legal aid funding is mainly derived from the government's fiscal budget. The Ministry of Justice is the key organization to oversee the spending of the budget for the legal aid mission.

The Justice Fund Under the supervision of the Department of Rights and Liberties Protection, Ministry of Justice for the 2014 fiscal year is 2,486,346.15 USD (80 million THB). The Legal Aid Fund under the supervision of the Lawyer Council of Thailand received an annual subsidiary from from the state over 1,553,966.35 (50 million THB) per year through the Ministry of Justice. The Ministry of Justice itself was allotted the budget of 616,439,801.92 USD (19,843.4 million THB) in 2014 fiscal year. Other agencies that have the legal aid mission may allocate the annual budget of the entity to provide legal aid for the people. In 2014, Court of Justice has received a total budget of 453,472,243.27 USD (14,590.8 million THB), and the Office of the Attorney General has received a total budget of 234,726,616.59 USD (7,552.5 million THB).

The budget for the 2014 has been spent on education strategy, ethics, quality of life and equality in the society, access to justice by creating opportunities was proposed at the amount of 262,868,94.71 USD(845.8 million THB) to the public to promote public access to

the justice system, through developing strong legal aid service. Additionally, the Community Justice Network has been implemented to promoting public awareness on rights and access to fast and convenient services.

(b) Has your organization experienced large-scale funding cuts? If so, what were the strategies for responding to such situation?

n/a

(c) What is the percentage of funding spent on paying lawyers' fees and costs, and on administration expenses respectively?

n/a

(d) Does assistance extend to covering costs such as court cost, government charge, and cost awarded against the legal aid recipient?

n/a

5. How does your Organization evaluate performance? What are the effective tools or methods of evaluation? If your organization has established branch offices, how are their performances evaluated?

n/a

6. Please describe the methods of service delivery in your country (or organization):

(a) Are the bulk of the approved cases conducted by in-house/staff attorneys or by lawyers in private practice?

n/a

(b) What are the conditions of registering as a legal aid lawyer?

n/a

(c) What are the rules and procedures of assigning approved cases to legal aid lawyers?

A volunteer litigator system in the court of justice is a system that register litigators in each the court's rosters. A defendant may request a litigator or the court may arrange for a litigator. A volunteer litigator will be called upon according his/her registration number the on the roster.

Provision legal aid service by the Lawyer Council of Thailand is on a voluntary basis and on willingness of each individual lawyer to assist in various type of cases that the Lawyer Council of Thailand provide legal assistance to the public.

(d) How do the salaries and fees paid to legal aid lawyers compare with the general market rate?

State agencies will pay fees to litigators who provide a legal aid service when a state agency requests such service from a litigator or when a defendant request a litigator. The details of each agencies/organizations are as follows:

1. The Court of Justice in the case of legal aid or volunteer litigator:

Subject to Section 173 of the 2005 Criminal Procedure Code, the gratuity and expenses are prescribed in the Regulation of the Court of Justice Administration Committee based on the rates of gratuity and expenses to a litigator appointed by the court for a defendant or an accused person. The Court of the First Instance set up fixed rates from the fiscal budget of the Office of the Court of Justice.

2. The Department of People's Rights Protection and Legal Aid, the Office of the Attorney General

Litigators provided legal aid on voluntary basis, thus the fees depend on court orders or verdicts as volunteer litigators may not demand the fees from individuals seeking legal assistance. Litigators may request reimbursements for traveling expenditure to courts and

fact-finding trips each time they perform the aforementioned duty. The 1990 Department of Public Prosecution's Regulation sets rates of fees for providing legal aid to the people. The budget is from the fiscal budget of the Office of the Attorney General.

3. The Lawyer Council of Thailand

Lawyers who provide legal aid to the people received stipends and/or honorarium, traveling and accommodation expenditure. Volunteer lawyers in Bangkok and provincial areas can submit a reimbursement request at the end of their mission along with an operational report or a case report and the court's proceeding report. Subsequently, the Legal Aid Committee or a Regional Lawyer Council Executive Board, as the case may be, will consider the reports and requests and will grant reimbursements according to the regulation. Under Section 77 of the Lawyer Act 1985, the budget is derived from, (1) An annual budget allocated from the Lawyer Council's fund at the minimum 10 per cent of the income from registration fees, membership fees and other fees and charges from the past year; (2) A government's subsidy, currently at the amount of 50 million baht per annum; (3) Donations; and (4) Interests of properties/funds under (1), (2) and (3).

The above fees and stipends for lawyers providing legal aid by an arrangement of state agencies is not in a relationship with the rate from a defendant's direct employment or regular professional rates.

7. Please describe the types of legal aid services provided in your country (or organization), and the types of matters aided.

The Office of Law Reform Commission of Thailand does not provide a direct legal aid service to the public but it promoted and support the public to access legal services by disseminating legal knowledge, including rights of the people, based on the respect for human rights, paralegals training and coordinating with state agencies and civil society sectors that provide legal aid services to the people to ensure a collaboration for a systematic legal aid to the people in the provincial level.

8. Please describe application procedures and the criteria of granting legal aid.

n/a

9. In order to satisfy demand:

(a) Are there services or standards specifically designed to help disadvantaged groups, such as women, children, indigenous people, labor and residents living in remote areas?

State's legal aid services only pertains specific issues and currently the services provided were prescribed by the law such as in the cases with high penalties and the cases for children and/or juvenile offenders. For other cases apart from those, the civil society sector in specific areas will provide assistances and promote an access to justice among specific populations such as services for migrant workers in Thailand, for ethnic group members in Thailand who cannot speak official Thai language in case they become accused persons or defendants in criminal cases.

(b) Are there special standards or rules for deciding whether (and how much) legal aid resources should be allocated to assist complex cases (eg, environmental lawsuits or other class action lawsuits)?

n/a

10. How does your organization monitor the quality of legal aid lawyers' services?

n/a

11. How does your country (or organization) inform potential applicants (particularly residents living in remote locations) of the availability of legal aid services?

The Office of Law Reform Commission of Thailand coordinates a network to provide legal aid services among legal aid service providers in Thailand such as the university legal aid centers, the civil society sector's legal aid centers and independent lawyers. The Office has set up a center in the Northern Region at Chiang Mai province and a lower Northern Region center at Phitsanulok province, two centers in the Northeastern Region at Khon Kaen province and Ubon Ratchathani province and a center at the Southern Region at Trang province. At the five centers, each center selects a local sub district areas for one to two sub-districts in each region to provide legal aid services and to disseminate legal and rights knowledge. The areas -areremote areas from city centers.

12. How does your organization help to reduce the amount of disputes which resort to the courts? Does your organization participate in law reform or offer legal education to the public? If so, please describe these activities or services.

The Office of Law Reform Commission of Thailand works on all aspects of law reform, particularly on the judiciary process. The Office is now working on the Master Plan for Judicial Process Reform, development of the (draft) Act of the Right of the People to Access Legal Services B.E. , which intends to create participations from every sector providing legal related services to draft the legislation. The Office also disseminates legal and rights knowledge of the people and creates a learning process for the paralegal networks in regions of Thailand.

13. Please describe recent initiatives which made services accessible through the use of technology. If self-help services are available, please comment on the effectiveness of these services.

n/a

14. Please describe the difficulties encountered by your country (or organization) in promoting legal aid work in the recent years, and the strategies for responding to these difficulties.

Our difficulties are coordinating budgets to provide the legal services to all parties equally and provide public access to legal services from the upstream to the downstream of the justice system to ensure fairness. The Office has developed a draft legislation on the Rights of People to Access Legal Services B.E. ... to enable a mechanism and a budget for such support. The mobilization for the legislation is extremely difficult for us. Thus, the Office has formulated the Legal Aid Network strategy and the Paralegal Network strategy to give opinions and support for such legislation. There is still a need for ongoing campaigns and mobilization to reach a better and broader understanding of the mechanisms of the judiciary process to the public.

15. Has your country (or organization) established any mechanisms of co-operation with legal aid organizations abroad?

The Thai government has not established any agencies for a legal aid coordination in the regional level and international level.

However, the Thai CSOs collaborate with international bodies/organizations to provide legal aid services in specific areas such as a collaboration to train lawyers to conduct an autopsy for victims of torture, a coordination or a dispatch of an expert witness to testify in a case.

16. How does your country (or organization) adopt United Nations legal aid principles and guidelines in policies and services?

Thailand, through the Thai government is trying to bring the UN legal aid service guideline to improve legal aid services. There is collaboration with the United Nation Development Program (UNDP) and other agencies such as the Rights and Liberties Protection Department, Ministry of Justice and the The Office of Law Reform Commission of Thailand, the collaborations for such improvement and development is in the initial period.