

Universal Periodic Review (39th session)
Contribution of UNESCO

Thailand

I. Background and framework

<i>Title</i>	<i>Date of ratification, accession, acceptance or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
<i>Convention against Discrimination in Education 1960</i>	Not a State Party	Reservation to this Convention shall not be permitted		Right to education
<i>Convention concerning the Protection of the World Cultural and Natural Heritage (1972)</i>	17/09/1987 Acceptance			Right to take part in cultural life
<i>Convention for the Safeguarding of the Intangible Cultural Heritage (2003)</i>	10/06/2016 Ratification			Right to take part in cultural life
<i>Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)</i>	Not ratified			Right to take part in cultural life

II. Promotion and protection of human rights on the ground

A. Education

1. The **Constitution of the Kingdom of Thailand of 2017**¹ does not enshrine the right to education. However, Section 54 provides that: “The State shall ensure that every child receives quality education for twelve years from pre-school to the completion of compulsory education free of charge.”

¹ <http://www.unesco.org/education/edurights/media/docs/e60903d5f4cb9278215dc0c231ac42a4da007434.pdf>

2. The **National Education Act B.E. 2542** enacted on August 1999 and amended in 2002², provides in its Section 10 that all individuals have equal right to receive basic education of quality and free of charge for the duration of at least twelve years. The same Section further states “Persons with physical, mental, intellectual, emotional, social, communication, and learning deficiencies; those with physical disabilities; or the cripples; or those unable to support themselves; or those destitute or disadvantaged; shall have the rights and opportunities to receive basic education specially provided”.

B. Freedom of opinion and expression

Constitutional and Legislative Framework:

3. Sections 34 and 35 of the Constitution of Kingdom of Thailand B.E.2560 (2017) guarantee freedom of expression and press freedom. In addition, Section 36 states that Censorship will not be permitted unless with a court order³.
4. Under Section 326 of the Thai Criminal Code, defamation carries a maximum sentence of one year of imprisonment, a fine of up to 20,000 Baht. Under Section 328 of the Thai Criminal Code, when defamation is committed by “means of publication”, the offender is liable for imprisonment for up to two years and a fine of up to 200,000 baht. If the person who is accused of defamation is able to prove that the statement is true, the person shall not be punished⁴. Article 112 of the Criminal Code, known as the *lèse majesté* law, provides that ‘whoever defames, insults or threatens the king, the queen, the heir-apparent or the regent shall be punished with imprisonment of three to 15 years’.
5. Access to information in Thailand is covered by the 1997 Official Information Act.
6. Section 14 of the Computer Crime Act (CCA, 2017, amended 2019) penalises introducing into a computer system data with specific characteristics, such as threatening public or national security. Section 14.1 specifically allows for targeting of ‘distorted or false’ data that are not a crime of defamation under the Thai Criminal Code. Section 15 criminalizes the internet service providers. Violation of either section can lead to imprisonment.

Institutional Framework for Implementation of Legislation:

7. In Thailand, the Ministry of the Digital Economy and Society (MDES) is responsible for Internet policy with the Electronic Transactions Development Agency (ETDA) as its executive arm while the National Broadcasting and Telecommunications Commission (NBTC) is responsible for broadcasting policy and regulation.

² <http://www.unesco.org/education/edurights/media/docs/98b906a326654f93caffdcccda7353916dd4ce39.pdf>

³ www.constituteproject.org/constitution/Thailand_2017?lang=en

⁴ <https://library.siam-legal.com/thai-law/criminal-code-defamation-sections-326-333/>

8. The Anti-Fake News Centre Thailand set up by MDES was inaugurated on November 2019.⁵ The centre aims to identify information that is misleading or damages the country's image, but there are concerns that it may become a basis for censorship.
9. There are journalist unions active in Thailand: the biggest are the Thai Journalists Association and the Thai Broadcast Journalists Association.⁶ Besides these, there are the National Press Council of Thailand and the News Broadcasting Council that serve as self-regulatory bodies.⁷ The National Press Council introduced media ombudsman mechanism in 2017.
10. The first Thailand Internet Governance Forum (IGF) was held in 2015, but there has been no subsequent Thai IGF.
11. Following domestic protests, the Thai Government declared an enhanced State of Emergency (SOE) in Bangkok on 15 October 2020, which banned large public gatherings and censored media. These measures were rescinded on 22 October, however, the SOE which has been declared since March 2020 to counter COVID-19 will continue until at least 15 January 2021.

Safety of Journalists:

12. UNESCO has registered killings of five journalists in Thailand since systematic reporting began in 2008.⁸ The most recent case was in 2012. At least two of these cases remain ongoing/unresolved according to the information received from the Member State. No information has been received on the remaining three cases.

III. Review and specific recommendations

A. Education

Legislative, regulatory and policy framework:

- **Prevention and Solution of the Adolescent Pregnancy Problem Act 2016:** aims at reducing the high rates of teenage pregnancy which consequently leads to girls dropping out of school
- **Twelfth National Economic and Social Development Plan (2017-2021)**⁹ sets benchmarks to match international standards and develop capacity for continuous self-learning of Thai people. It further seeks to improve the quality of the education system and lifelong learning.

⁵ See its website: <https://www.antifakenewscenter.com>

⁶ See their website: http://www.tja.or.th/index.php?option=com_content&view=article&id=2568:thai-journalists-association-tja&catid=133:2011-03-25-09-28-42&Itemid=76.

⁷ See its website : www.presscouncil.or.th.

⁸ See <https://en.unesco.org/themes/safety-journalists/observatory/country/223822>

⁹ https://planipolis.iiep.unesco.org/sites/planipolis/files/ressources/thailand_12th_national_economic_social_development_plan_2017-2021.pdf

- The **Education Fund Act** was published in the Government Gazette in May 2018.¹⁰

Dropout rates

- According to the United Nations Partnership Framework (UNFP) 2017-2021, there is an increase in dropout rates mostly from the most vulnerable groups.¹¹ This affects children in both primary and secondary levels, and is particularly prominent among poorer households who deem the cost too high.

People with disabilities

- The UNFP 2017-2021 also notes that more needs to be done to effectively implement the Persons with Disabilities Education Act B.E. 2551 (2008).¹²

Girls and women

- The CEDAW Committee recommended to “enhance positive and non-stereotypical portrayals of women” in the education system due to the patriarchal attitudes and discriminatory practices¹³. Similarly, while recognizing progress made in the participation rate in tertiary education, the Committee was concerned with the low enrolment rate in non-traditional fields of study.¹⁴ It further recommended to review the comprehensive sexuality curriculum to better prepare and protect students in light of the Prevention and Solution of the Adolescent Pregnancy Problem Act and to train teachers accordingly.¹⁵ The Committee further recommended ensuring greater access to education for women in rural areas¹⁶ and ethnic minority and indigenous women¹⁷.

Ethnic minority and indigenous people

- The Human Rights Committee also noted that due to the high number of statelessness particularly among the indigenous people and ethnic minorities, access to education is

¹⁰ UNICEF Thailand, Education, available at: <https://www.unicef.org/thailand/what-we-do/education> (Accessed on 14/09/2020)

¹¹ United Nations Partnership Framework 2017-2021, p. 13, available at: https://planipolis.iiep.unesco.org/sites/planipolis/files/ressources/thailand_unpaf-2017-2021.pdf

¹² Ibid. p. 14.

¹³ Concluding observations of the Committee on the Elimination of Discrimination against Women, Doc. CEDAW/C/THA/CO/6-7, 24 July 2017, para. 19 (a), available at : https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/THA/CO/6-7&Lang=En

¹⁴ Ibid. para. 34.

¹⁵ Ibid. para. 35 (a).

¹⁶ Ibid. para. 43(a)

¹⁷ Ibid. para. 32.

hampered.¹⁸

Quality education

- The UNFP 2017-2021 also reveals that the quality of education is of concern as many children are not on track of their development and this is particularly evident due to the disparities in access to early childhood development.¹⁹ The Twelfth National Economic and Social Development Plan (2017-2021) also acknowledged the poor academic performance of Thai students due to, among others, the design of the curricula and teaching methods.²⁰ Concerns were also raised over tertiary and higher education which do not take into consideration the labour markets needs which result in graduates not having the adequate skills for the market.²¹
- To this extent, the Plan includes measures on “[e]ducational excellence [which] should be promoted at all levels by improving the management of primary education quality in small schools, reforming teaching and learning methods, and developing the quality of teachers within the whole system.”²²

Covid-19 education disruptions

- According to UNESCO’s data, Thailand closed its schools on 18 March 2020 due to the pandemic.²³ Since July 1, children are physically back in school.²⁴

Specific recommendations:

13. Thailand should be encouraged to:

- Ratify the UNESCO Convention against Discrimination in Education.
- Increase efforts to lower school drop-out rates, particularly through financial incentives for students from poor households.
- Ensure the effective enforcement of the Persons with Disabilities Education Act B.E. 2551 and ensure access to inclusive education for every child with disability, and ensure access to education for all groups, particularly the most vulnerable such as

¹⁸ Concluding observations of the Human Rights Committee, Doc. CCPR/C/THA/CO/2, 25 April 2017, para. 41, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/THA/CO/2&Lang=En

¹⁹ United Nations Partnership Framework 2017-2021, op. cit, p. 14.

²⁰ Twelfth National Economic and Social Development Plan (2017-2021), p. 53, available at: https://planipolis.iiep.unesco.org/sites/planipolis/files/ressources/thailand_12th_national_economic_social_development_plan_2017-2021.pdf

²¹ Ibid. p. 53.

²² Ibid. p. 19.

²³ UNESCO, Education: From disruption to recovery: Covid-19 impact on Education data, accessible at: <https://en.unesco.org/covid19/educationresponse>

²⁴ UNICEF, Article: School reopening: How teachers and students are adjusting to the new normal in Thailand? 08 September 2020, accessible at: <https://www.unicef.org/thailand/stories/school-reopening-how-teachers-and-students-are-adjusting-new-normal-thailand>

those who are stateless.

- Reinforce measures to combat stereotypes and discrimination against women in education, to encourage their enrolment in higher education and in non-traditional fields of study, and ensure quality sexual education.
- Continue its efforts to ensure quality education across all levels of education.
- Submit regularly comprehensive national reports for the periodic consultations on UNESCO's education-related standard-setting instruments, including the Recommendation against Discrimination in Education.
- Share with UNESCO any relevant information to update its country profile on UNESCO's Observatory on the Right to Education.²⁵

B. Freedom of opinion and expression

14. It is recommended that the Government lift restrictions on freedom of expression in the national legislation in line with international standards on human rights.
15. It is recommended that the Government refrain from criminalizing dissenting voices during the imposition of a state of emergency until the decree is lifted.
16. It is further recommended that Thailand decriminalize defamation and place it within a civil code that is in accordance with article 19 of the International Covenant on Civil and Political Rights.²⁶
17. It is recommended that Thailand continue responding to the request by UNESCO's Director-General regarding judicial follow-up of killings of journalists and to include information on all cases of killed journalists condemned by the Director-General.
18. The Government may wish to consider taking advantage of the UN Plan of Action on the Safety of Journalists and the Issue of Impunity as a roadmap to strengthen protection of journalists and freedom of expression.

C. Cultural rights

19. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972)²⁷ and the Convention for the Safeguarding of the Intangible Cultural Heritage (2003)²⁸, Thailand is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions and, as such, are conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, Thailand is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and NGOs from the civil society as well as vulnerable

²⁵ <http://www.unesco.org/education/edurights/index.php?action=countries&lng=en>

²⁶ See for example, General Comments No 34. of the International Covenant on Civil and Political Rights (ICCPR), 2006 Recommendation of the 87th Session Human Rights Committee, the recommendations of the UN Special Rapporteurs on the Right to Freedom of Opinion and Expression, and Resolution 1577 (2007) of the Parliamentary Assembly of the Council of Europe.

²⁷ Periodic Report available at: <http://whc.unesco.org/en/activities/682>

²⁸ Periodic Report not available

groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

20. Thailand is also encouraged to ratify the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) so as to complete its policy and legislative frameworks to enhance support to the implementation of the right to take part in cultural life.

D. Freedom of scientific research and the right to benefit from scientific progress and its applications

21. Thailand submitted its National Report on the implementation of the Recommendation on the Status of Scientific Researchers (1974) for the Second Consultation covering the period from 2013 to 2016 (<http://unesdoc.unesco.org/images/0025/002592/259256e.pdf>). Thailand reported that the guiding principles of the 1974 Recommendation, including the principles of non-discrimination, freedom and autonomy of scientific researchers, respect for their human rights and fundamental freedoms, are reflected in the Constitution of the Kingdom of Thailand B.E. 2550 (2007), which stipulates that:

“Part 9

Science, Intellectual Properties and Energy Policies

Section 86. The State shall act in compliance with the science, intellectual properties and energy policies as follows:

(1) enhancing the development of science, technology and innovation in all aspects by enacting specific law in so doing, preparing budget for studying and making of researches, establishing institution for research and development, encouraging the use of results emerging from researches and development, the efficient transfer of technology and the appropriate development of researchers, and disseminating science and modern technology knowledge to the public and encouraging the public to apply science into their living;

(2) supporting an invention or excogitation for new wisdom, preserving and developing local wisdom and Thai wisdom, and protecting intellectual properties;

(3) promoting and supporting continuously and systematically of the research, the development and the use of natural alternative energy which is beneficial to the environment.”

22. Thailand is encouraged to report to UNESCO on the implementation of the newly adopted Recommendation on Science and Scientific Researchers (2017), which supersedes the 1974 Recommendation, on any legislative or other steps undertaken by it with the aim to ensure the application of this international standard-setting instrument paying a particular attention to the legal provisions and regulatory frameworks which ensure the implementation of human rights of scientific researchers, as well as human rights obligations related to science, the principle of non-discrimination, including urging active promotion of women and girls entering scientific careers, as well as the scientists’

rights of autonomy, freedom of research, expression and publication.