



WOMEN WHO ARE SUBJECTED TO MALE VIOLENCE IN INTIMATE RELATIONSHIPS

Brief Assessment of the Implementation of the 2nd Cycle UPR Recommendations

In the five years since Thailand's 2nd UPR cycle, domestic violence and gender-based violence against women has remained an unsolved issue in Thailand, even though Thailand accepted four recommendations from Bangladesh, Chile, Mexico, and Djibouti to combat discrimination against women. Moreover, Thailand promised to "continue its efforts to eliminate discrimination against women" and "continue to strengthen measures to reduce discrimination and all forms of violence against women effectively." During its 2nd UPR cycle, Thailand supported recommendations from Italy to "establish an effective policy and legal framework to prevent all forms of discrimination and violence against women, including domestic violence, and ensure that women victims of violence receive adequate support and offenders are brought to justice," as well as from Kyrgyzstan to "further address all forms of gender-based violence and abuses by revising the relevant provisions of the Penal Code, Criminal Procedure Code, and Domestic Violence Victim Protection Act." Since the ruling of Prayuth Chan-o-cha's military government in 2014, Thailand prioritized its national funds, governmental programs, and task forces on national security and protecting the military regime and monarchy. The Coalition of Women and LGBTI Women in Thailand on CEDAW reported that "since the military coup in May 2014, our struggle for justice and equality for women in Thailand has become even more difficult due to increasing restrictions of fundamental freedoms and ongoing discrimination." Drastic funding cuts in the government's women protection programs and prevailing victim-blaming attitudes deeply rooted in patriarchal institutions resulted in insensitive and inactive responses to domestic violence and gender-based violence cases. Consequently, domestic violence and gender-based violence against women continues to be unaddressed, and women are often manipulated to go through illegitimate mediation procedures, mostly without legal remedies or compensation fees.

REALITIES ON THE GROUND

Challenges

Cases, Facts, Comments

Challenge 1: Discrimination against women survivors of gender-based violence

During its 2nd UPR cycle, Thailand accepted four recommendations from Bangladesh, Chile, Mexico, and Djibouti to combat discrimination against women. While Thailand has promised to "continue its efforts to eliminate discrimination against women" and "continue to strengthen measures to reduce discrimination and all forms of violence against women effectively," Thai law enforcement institutions continue to discriminate against women, resulting in more obstacles for women entering the justice system. In 2018, the Royal Police Cadet Academy (RPCA) announced the ban against women enrolling into the RPCA, i.e., the RCPA will accept only men from 2019 onwards. This exclusion of women shows the structural and institutional violence against women in two foremost issues, gender discrimination and the obstacles to access to justice.

Regarding the right to social security of vulnerable groups, Thailand supported the recommendation from Japan to "improve access to health, education, and social welfare for vulnerable groups, including for those in rural areas, ethnic minorities, women, migrants, and refugees." However, women survivors of domestic violence still face alarmingly limited access to protection orders, shelters, as well as legal remedies.

Women survivors of gender-based violence in Thailand often face stigmatization and victim-blaming when speaking out and entering the justice system. Even though Section 133 of the Criminal Procedure Code of Thailand guarantees the right to request a female inquiry officer, stating "In the case of an offense relating to sexuality, inquiring the female injured person shall be made by a female inquiry officer," there is a limited number of female officers, which makes women who are subjected to gender-based violence feel unsafe. Whereas 87% of rape cases go unreported to Thai police, no concrete steps to ensure women's safe and fair trials have been taken. Furthermore, the Thai police does not record all of the complaints on gender-based violence against women. Even worse, the police encourage survivors to have unofficial mediations with perpetrators. The prevalence of gender-based violence cases shown in the justice system is, as such, only the tip of the iceberg.

Since its establishment in 2016, SHero received a number of complaints regarding the struggles of women when trying to obtain protection orders and their ineffectiveness due to officers' negligence in response to the breach of such orders.

Consequently, women survivors have to live in fear and insecurity, isolated from communities and legal protection. This structural violence causes negative impacts on survivors' mental and physical well-being.



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At the same time, the Thai government fails to provide adequate and accessible funding and facilities for the health and social welfare of women affected by domestic violence. Instead, the government focuses on treating perpetrators, as reported in the 2017 CEDAW Committee's Concluding Observations to Thailand. As such, effective protection measures for women must be the government's priority rather than mediation and reconciliation.

Challenge 2: Violence against women reinforced by laws and legal institutions

During its 2nd UPR cycle, Thailand supported recommendations from Italy to "establish an effective policy and legal framework to prevent all forms of discrimination and violence against women, including domestic violence, and ensure that women victims of violence receive adequate support and offenders are brought to justice," as well as from Kyrgyzstan to "further address all forms of gender-based violence and abuses by revising the relevant provisions of the Penal Code, Criminal Procedure Code, and Domestic Violence Victim Protection Act."

Women tend to be discouraged by the Thai police, family, friends, and community members from pursuing legal action. As a result, not many women have achieved access to justice and legal remedies. A report from the Ministry of the Health of Thailand shows the number of domestic violence survivors who have received care from 440 hospitals around Thailand. Out of 14,237 domestic violence patients, 13,248 are women survivors, 972 are men, and the rest are LGBTIQ+.

Since the 2nd UPR cycle, the Thai women's rights network opposed the Protection of Welfare of Family Members Act (later developed into the Promotion of Development and Protection of Family Institution Act of 2019) as the law prioritizes family institutions over the rights of survivors of domestic violence. In short, it focuses on mediation and reconciliation procedures without prioritizing the best interests of survivors. Since most survivors are women, women's best interests are not considered in this legislation.

Thailand has been promoting family-centric reconciliation, acting in opposition with the human rights standards that ensure women's legal protection rights and freedom from torture. As shown in Thailand's attempt to replace the Domestic Violence Victim Protection Act of 2007 with the Promotion of Development and Protection of Family Institution Act of 2019, women's rights to be free from torture and to receive legal protection and remedies are not treated as priorities.

Mediation or reconciliation measures have been the main practice of domestic violence resolution in Thailand and accordingly endorsed by Thai law since 2007. The Domestic Violence Victim Protection Act aims "to save family relationships," which results in convincing survivors to opt for mediation conducted by law enforcement officials. The official handbook for competent officials concerning domestic violence survivors addressed the purpose of the law as "to keep the relationship of family"; it indicates that a mediator or anyone that the court appoints may assist the parties in reconciliation. The handbook does not provide any cautions regarding the potential unequal balance of power between abusers and survivors.

Compared with the database of legal cases, only 461 cases were reported to the police, and 146 cases remained in mediation without further trial. This statistic, however, does not reflect the reality of many women who have turned away from the justice system. Based on the complaints SHero Thailand received, women survivors are often subject to victim-blaming and told they cannot do anything, even, at the very least, mediation, at police stations.

The matricide case at Bang Phrom, which took place in January 2021, demonstrates the inaction of the police to protect women. In the murder case in Bang Phrom, a man murdered his mother and was later shot to death by the police. Even though the man has been abusing his mother for years and people in the neighborhood have reported him so many times, the police never arrested him as they considered it a family matter.

Challenge 3: Increase of domestic violence and gender-based violence during the COVID-19 outbreak

The COVID-19 outbreak resulted in the increase of domestic violence and gender-based violence against women in Thailand, which is attributable to, amongst others, financial pressures and alcohol intake during lockdowns. Since Thailand's handling of the outbreak is relatively poor, women's advocates in Thailand expect that violence against women will continue to escalate.

According to a nationwide survey carried out by the Thai Health Promotion Foundation, there has been a 66% increase in domestic violence cases since the introduction of COVID-19 control measures in March 2020. While cases increased by 48% in the South, cases increased by 26% in Bangkok.

The COVID-19 outbreak has also resulted in poor access to services for survivors of domestic violence and gender-based violence, causing difficulties in visiting hospitals for physical and psychological treatment, as well as collection of evidence with respect to the abuse. Government and private shelters have limited the number of survivors that can be taken in or shut down their services entirely. Lockdowns have not only prevented survivors from seeking help, but also from attending peer support groups.

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The adverse impact of the COVID-19 outbreak on survivors of domestic violence and gender-based violence is particularly felt by women survivors belonging to marginalized groups. According to Watcharapon Kukaewkasem, a domestic violence survivor from the Akha ethnic community in Thailand, violence is normalized in migrant communities, and migrant women have nowhere to go as a result of border closures during the outbreak. Given that the One Stop Crisis Centre's hotline is only available online in Thai, coupled with the fact that there is an insufficient number of shelters near migrant communities, migrant women seeking support are left behind.

RECOMMENDATIONS

1. On challenge 1: Discrimination against women survivors of gender-based violence

- 1.1.** In line with the 2017 Concluding Observations of the CEDAW Committee to Thailand, **improve the social security of women survivors by increasing the availability, accessibility and quality of essential services, including legal assistance and appropriate healthcare services, emergency assistance and psychosocial support from properly trained professionals.**
- 1.2.** In accordance with the 2017 Concluding Observations of the CEDAW Committee to Thailand, **disseminate information, in particular in rural and remote areas, about the legal remedies available to women regarding violations of their rights.**

2. On challenge 2: Violence against women reinforced by laws and legal institutions

- 2.1.** **Revise the Domestic Violence Victim Protection Act of 2007 by integrating a survivor-centered approach to domestic violence law and eliminating family-centric policies.**
- 2.2.** In accordance with the 2017 Concluding Observations of the CEDAW Committee to Thailand, **take concrete measures to ensure the safety and protection of women survivors subjected to all forms of domestic violence and gender-based violence by increasing the effectiveness of restraining orders as well as criminal offenses against perpetrators. Ensure that survivors of domestic violence have adequate access to shelters, crisis centres, protection orders, as well as legal remedies, instead of reconciliation and mediation.**
- 2.3.** In line with the 2017 Concluding Observations of the CEDAW Committee to Thailand, **strengthen the gender responsiveness and gender sensitivity of the justice system, including by prosecuting and punishing corrupt law enforcement and judicial officials who obstruct justice, in order to restore women's trust in the justice system.**
- 2.4.** In line with the 2017 Concluding Observations of the CEDAW Committee to Thailand, **ensure women's access to justice and legal remedies by providing legal assistance, shelters, and justice funds, while considering systemic oppression towards women, as well as factors particular to women belonging to marginalized groups. Simplify the procedure for accessing the Justice Fund and ensure that it is available and accessible to all women, including rural women, indigenous women, women belonging to ethnic and religious minority groups, and women with disabilities.**

3. On challenge 3: Increase of domestic violence and gender-based violence during the COVID-19 outbreak

- 3.1.** **Allocate additional resources and include evidence-based measures to address violence against women in COVID-19 national response plans.**
- 3.2.** **Strengthen services through expanding the capacity of shelters, including re-purposing other spaces, to accommodate women's needs, and through safety planning and case management, adapted to the COVID-19 crisis context, to ensure survivors' access to support.**
- 3.3.** **Ensure support for grassroots women's rights organisations, especially those that provide essential services to hard-to-reach, remote and vulnerable populations, during the COVID-19 crisis.**

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