

Thailand

Individual Submission to the UN Universal Periodic Review

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Women who are subjected to male violence in intimate relationships

Contact

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Introduction

1. SHero, pronounced as 'she-ro', is a civil society organization founded in 2016 that works for the de-normalization of violence culture in Thailand. We provide pro bono legal assistance and counseling for gender-based violence survivors, build capacity for youth to create changes in their own community, and advocate for the better protection of women's human rights. We have worked voluntarily and provided legal, emotional and emergency support to 329 cases of GBV. Most of the complaints reported to SHero addressed the irresponsiveness, insensitivity, victim-blaming attitude, and inactive of the law enforcement. Moreover, to date we have trained 75 youth leaders, involved 17 youth volunteers in policy advocacy and provided workshops and training for over 2,750 youth and survivors. Discrimination against women have been reported to SHero through these activities.
2. Male violence against women has been an unresolved issue since the 2nd Cycle of the Universal Periodic Review (UPR). Ruling by Prayuth Chan-o-cha's military government since 2014, Thailand prioritize its national funds, governmental programs, and task forces towards the matter of national security and the protection of military regime as well as the monarchy. The Coalition of Women and LGBTI Women in Thailand on CEDAW¹ 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 Governmental women protection programmes plus the victim-blaming attitudes which deep-rooted in patriarchal institutions resulted in the insensitive and inactive response to gender-based violence cases, particularly domestic violence cases². Consequently, domestic violence against women continues to be unaddressed and women often are manipulated to go through illegitimated mediation procedure mostly without legal remedies or compensation fees.
3. While reporting domestic violence as a human rights abuse committed by State has its practical and theoretical limitations considering the challenge to prove a pattern of violence and to demonstrate a systematic failure by Thailand to afford women equal protection of the law. It is crucial to have the domestic violence issue, which has historically been considered as private and marginal to human rights issues, to be highlighted in the national and international human rights mechanism.
4. This submission focuses on human rights of women who are subjected to domestic violence, analyzes Thailand's progress on recommendations made by member states during the UPR 2nd Cycle and make recommendations for the 3rd Cycle. It will illustrate issues related to the systematic oppression and human rights violation against women who are subjected to domestic violence reinforced by societal, legal and political intuitions.

Violence against women reinforced by the law and legal institution of Thailand

5. Italy recommended Thailand to “Establish an effective policy and legal framework to prevent and contrast all forms of discrimination and violence against women, including domestic violence, in order to ensure that women victims of violence receive adequate support and offenders are brought to justice.”³ Additionally, Kyrgyzstan recommended Thailand 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.”⁴ Both recommendations were supported by Thailand during the 2nd Cycle of the UPR.
6. Thailand also ⁵ratified the Convention for the Elimination of all forms of Discrimination against Women (CEDAW). In this regard, the CEDAW Committee expressed their concerns during the 6th and 7th periodic reports of Thailand in 2017 for “The high prevalence of gender-based violence against women and girls, in particular domestic violence and sexual violence,” and “The fact that the Domestic Violence Victim Protection Act of 2007 provides for the settlement of a case through reconciliation and mediation at every stage of the legal proceeding.” Consequently, the Committee recommended Thailand to “Ensure that victims of domestic violence have adequate access to shelters, crisis centers, protection orders, as well as legal remedies, instead of reconciliation and mediation.”⁶
7. Supporting the concerns from the CEDAW committee for Thailand regarding access to justice and remedies⁷, The Coalition of Women and LGBTI Women in Thailand on CEDAW addressed that “law enforcement must adhere to legal practices and not discriminate against women and include sensitivity for sexual diversities in the entire justice system.”, “Government must prioritize safety and justice for women affected by domestic violence over mediation and reconciliation.”⁸
8. Yet, Thailand has been promoting the family-centric reconciliation, acting oppositely from the human rights standards to ensure women’s rights to have legal protection and be free from torture. The evidence shown in the attempt of Thailand to replace the Domestic Violence Victim Protection Act B.E.2550 (2007) with the Promotion of Development and Protection of Family Institution Act B.E.2562 (2019). The rights of women to be free from torture and to receive legal protection and remedies are not treated as the priority.
9. Mediation or reconciliation measure has been the main practice of domestic violence resolution in Thailand and endorsed by the law since 2007. Stated as the key components of the 2007 Act that it aims ‘to save family relationship’ and law enforcement officials to convince survivors to opt for mediation. The official handbook for competent officials for domestic violence survivors addressed the propose of the law is “to keep relationship of family”, it indicates that mediator or any one that court

appoints may assist the parties in reconciliation. The handbook does not provide any cautions regarding the potential unequal power between the abuser and abused partner.⁹

10. The intentment of the 2007 Act addressed that the common criminal justice procedure is inappropriate for domestic violence resolution. While domestic violence is different from other physical violence offence, the problem shall be solved not by punishing the perpetrator but to focusing on rehabilitation of perpetrator, giving opportunity for the perpetrator to reform and restrain from recidivism. Thailand have been declaring the perpetrator-favoured intention in the law to replace 2007 Act since the cycle of UPR.
11. As a result, most women survivors have been failed in filing a legal case against their perpetrators to the Court. Women tend to be discouraged by the Thai police, their family, friends and community members from pursuing legal steps. As a result, not many women have achieved the access to justice and legal remedies. Ministry of the health of Thailand (2018) report has shown the numbers of domestic violence survivors who have received care from 440 hospitals around Thailand, the total number is 14,237 persons. Out of all domestic violence patients, 13,248 cases are women survivors, 972 are men, and the rest are LGBTIQ.¹⁰ In comparison with legal cases database, only 461 cases reported report to the police, 146 cases remained in mediation procedure without further trial. This statistic, however, do not reflect the reality of many women who have turned away from justice system. Based on the complaints SHero Thailand received, women are often victim-blamed, told that they cannot do anything, and at the very least mediation verbally at the police stations. Since the 2nd Cycle, Thai women's rights network opposed the draft of Protection of the Welfare of Family Members Act (later developed to the Family Institution Act) that the law prioritizes family institution over the rights of survivors of domestic violence, by focusing on mediation and reconciliation procedure without prioritizing the best interests of violence survivors. While most survivors are women, but the women's best interests are not considered in this legislation.
12. In 2019, Thailand passed the Promotion for Development and Protection of Family Institution Act of 2019, stating in its section 3 to abolish the 2007 Act. This law reinforced the patriarchal culture and societal oppression towards women, a group which most vulnerable to domestic violence and intimate partner violence, by using family welfare as an excuse to return women survivors to the abusers. While as women rights movement has been vigorously advocating for the survivor-centric approach to domestic violence resolution, not the family-centric approach, it is clear that Thailand disregard the voices of women-led civil society organizations and women survivors who demand the safety and justice for women rather than pressuring them through power-imbalance mediation procedure. Even though, the 2019 Act has been temporarily deforced from implementation. But, the reason this law was put on hold was because the lack of resources to establish the family centers, not that Thailand had recognized the issues raised by women-led movement, nor the obstacles of women. If an unequal

power between male abuser and women survivor can be compromised by Thai law, no women is safe in this country.

Discrimination against women

13. During the 2nd Cycle of the UPR, Thailand accepted 4 recommendations from Bangladesh, Chile, Mexico and Djibouti to combat the discrimination against women. While Thailand has promised to “Continue its efforts to eliminate discrimination against women¹¹”, and “Continue to strengthen measures to effectively reduce discrimination and all forms of violence against women.”¹² However, Thai law enforcement institution discriminated against women which have caused more obstacles for women entering justice system. In 2018, the Royal Police Cadet Academy (RPCA) announced the ban against women to enrolling into the RPCA, and that it will accept men only from 2019¹³. This shows the structural violence against women in two main issues, discrimination and obstacle to access to justice. Women survivors of gender-based violence in Thailand often face stigmatization and victim-blaming when speaking out and getting into justice system. Having a limited number of female officers not only create obstacle for women who are subjected to male violence feel unsafe but also violate their rights to request a female inquiry officer according the fourth paragraph of Section 133 of the Criminal Procedure Code of Thailand stated that “In the case of offence relating to sexuality, inquiring the female injured person shall be made by a female inquiry officer.¹⁴” Whereas 87 percent of rape cases go unreported to Thai police¹⁵, Thailand has failed to take concrete steps to ensure women’s safe and fair trial. Moreover, Thai police system do not record all the complaints on gender-based violence against women and encourage survivors to have unofficial mediation with perpetrator. The prevalence of gender-based violence cases shown in government system is, as such, only a tip of the iceberg.

14. Regarding the right to social security of vulnerable group, 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.”¹⁶ However, women survivors of domestic violence still have inadequate access to protection orders, shelters, as well as legal remedies. Since established in 2016, SHero have received a number of complaints regarding the struggles of women to obtain protection orders, and their ineffectiveness due to the officers’ negligence in response to the breach of such orders. Consequently, women survivors have to live in fear and insecurity, isolating from community and legal protection. This structural violence causes the negative impact on survivors’ mental and physical well-being, while Thai government fails to provide adequate and accessible funding and facilities for health and social welfare of women who are affected by domestic violence. Instead, it focuses on how to treat the perpetrators, as it reported in CEDAW review 2017. As such, an effective protection measure for women is the priority rather than the mediation and reconciliation.

Conclusion

15. Women in Thailand are oppressed not only by the patriarchal culture and norms ingrained in educational and cultural system passed through the generations, but also by the law and legal system intended to pressure them to compromise with dominant partners that have abused, exploited and violated their rights. Moreover, they are also stripped of the right to social security while facing stigmatization from family, community members, and duty bearers. The economic gender inequality, financial violence, remains unsolved. Women have to fight the invisible web of oppression and human rights violation on daily basis. The socialization and internalization of patriarchal beliefs make it even harder for women to speak up for themselves. As a Buddhist-dominant country, the concept of Karma is also used to blame women survivors. It has been reported that Buddhist women often believe that they have suffered by domestic violence because negative Karma¹⁷. Yet, domestic violence, most occurred form of violence against women, are not taken seriously in Thailand.
16. To comply with the UPR recommendations Thailand supported and the international standards that it ratified, Thailand has a long way to go to uphold human rights of women. Women must be also part of democratic and decision-making process of the law and policy-makings, particularly the ones that have impact their lives. Further investigation must be done to unmasking patriarchy within legal system of Thailand. Systematic monitoring and evaluation of legal mechanisms for gender-based violence against women must be improved and reported by the state. Thailand must take concrete measures to end legal, social, and economic gender inequality. If Thailand does not suspect the obstacles of women and de-normalize male violence, the problems outlined in this submission continue.

Recommendations to the Government of Thailand

- Revise domestic violence act by integrating the survivor-centered approach to domestic violence law, and eliminate family-centric policy in the protection of domestic violence act.
- Take concrete measures to ensure the safety and protection of survivors who are subjected to all forms of male-violence by increasing the effectiveness of restraining orders as well as criminal offense against the perpetrators.
- Ensure women's access to justice and legal remedies by providing legal assistance, shelters, justice funds, considering systematic oppression towards women.
- Improve the social security of women survivors by providing adequate access to psychosocial support, healthcare, and emergency assistance.

Endnotes

- ¹ Foundation for Women (2017). Joint Statement of the Coalition of women and LGBTI women in Thailand on CEDAW. 19 August 2017. Available at <http://www.womenthai.org/eng/index.php/2017/08/19/joint-statement-the-coalition-of-women-and-lesbian-bisexual-transgender-and-intersex-lbti-women-in-thailand-on-convention-on-the-elimination-of-all-forms-of-discrimination-against-women/>
- ² สำนักงานงบประมาณ (2020) [Budget Bureau]. รายงานประจำปีงบประมาณ [Annual budget reports]. Available at <http://www.bb.go.th/topic3.php?catID=1328&gid=860&mid=544>
- ³ Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/33/16, 15 July 2016, Para. 158.82. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/154/74/PDF/G1615474.pdf?OpenElement>
- ⁴ Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/33/16, 14, July 2016, Para. 159.35. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/154/74/PDF/G1615474.pdf?OpenElement>
- ⁶ Concluding observations on the combined sixth and seventh periodic reports of Thailand, Committee on the Elimination of Discrimination against women, CEDAW/C/THA/CO/6-7, 24 July 2017. Para 21. Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/THA/CO/6-7&Lang=En
- ⁷ Concluding observations on the combined sixth and seventh periodic reports of Thailand, Committee on the Elimination of Discrimination against women, CEDAW/C/THA/CO/6-7, 24 July 2017. Para 11. Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/THA/CO/6-7&Lang=En
- ⁸ Foundation for Women (2017). Joint Statement of the Coalition of women and LGBTI women in Thailand on CEDAW. 19 August 2017. Available at <http://www.womenthai.org/eng/index.php/2017/08/19/joint-statement-the-coalition-of-women-and-lesbian-bisexual-transgender-and-intersex-lbti-women-in-thailand-on-convention-on-the-elimination-of-all-forms-of-discrimination-against-women/>
- ⁹ WAFD (2017). [Department of Women's Affairs and Family Development] Handbook for officers and mediators [คู่มือการปฏิบัติงานของพนักงานเจ้าหน้าที่ พนักงานสอบสวน และผู้ประนีประนอม]
- ¹⁰ MSDHS (2020) [Ministry of Social Development and Human Security]. รายงานตามมาตรา 17 แห่งพระราชบัญญัติคุ้มครองผู้ถูกกระทำด้วยความรุนแรงในครอบครัว พ.ศ. 2550 ประจำปี 2561 [Report of section 17 under domestic violence victim protection act 2007, report as of 2018]
- ¹¹ Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/33/16, July 15, 2016, Para. 158.69. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/154/74/PDF/G1615474.pdf?OpenElement>
- ¹² Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/33/16, July 15, 2016, Para. 158.71. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/154/74/PDF/G1615474.pdf?OpenElement>
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- ¹⁴ Section 133, Criminal Procedure Code of Thailand
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- ¹⁷ Khuankaew, O. (2007). Buddhism and violence against women. In D.C. Maguire & S. Shaikh (Eds.), *Violence against women in contemporary world religion: Roots and Cures* (pp. 174-191). Cleveland: Pilgrim Press.