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**JOINT SUBMISSION OF THE INTERNATIONAL COMMISSION OF JURISTS AND
SHERO THAILAND TO THE UN COMMITTEE ON THE ELIMINATION OF
DISCRIMINATION AGAINST WOMEN IN VIEW OF THE COMMITTEE'S EXAMINATION
OF THAILAND'S EIGHT PERIODIC REPORT UNDER THE CONVENTION ON THE
ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN**

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Composed of 60 eminent judges and lawyers from all regions of the world, the International Commission of Jurists (ICJ) promotes and protects human rights through the Rule of Law, by using its unique legal expertise to develop and strengthen national and international justice systems. Established in 1952, in consultative status with the Economic and Social Council since 1957, and active on five continents, the ICJ aims to ensure the progressive development and effective implementation of international human rights and international humanitarian law; secure the realization of civil, cultural, economic, political and social rights; safeguard the separation of powers; and guarantee the independence of the judiciary and legal profession.

SHero (pronounced She-Ro) is a civil society organization dedicated to ending gender-based violence and de-normalizing violent culture in Thailand. Since our establishment in 2016, we have provided legal and emotional support to survivors of violence, conducted workshops on gender-based violence prevention, and advocated for better access to justice for survivors. SHero trained 175 lawyers and caseworkers on gender-based violence, the survivor-centered approach, trauma-informed care, feminist legal theory, and case management. We have recruited a group of inspiring pro bono lawyers to join our team. Currently, our collective consists of 45 pro bono lawyers, social workers, therapists, case workers, and trained volunteers working together to support both Thai and non-Thai survivors of domestic and gender-based violence in Thailand.

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I. Introduction

1. The International Commission of Jurists (ICJ) and SHero Thailand welcome the opportunity to contribute to the Committee on the Elimination of Discrimination against Women's (Committee) review of Thailand's implementation of the Convention on the Elimination of All Forms of Discrimination against Women (Convention).
2. This submission highlights key concerns regarding Thailand's compliance with the Convention, focusing on:
 - a) Shortcomings in legal provisions addressing gender-based violence (GBV) (articles 1, 2 and 5); and
 - b) Barriers to accessing justice for GBV survivors (articles 1, 2, 5 and 15).
3. The issues raised have been identified, documented, and legally analyzed by our organizations over more than a decade of ongoing research.¹

II. Legal frameworks for combatting GBV

4. Since the Committee's review of Thailand in 2017, our organizations have been concerned that certain domestic legal provisions neither adequately nor appropriately prohibit all forms of GBV, and fail to impose effective, proportionate, and dissuasive sanctions. This contravenes Thailand's obligations under articles 1, 2, and 5 of the Convention, as well as the Committee's General Recommendation No. 35. The following paragraphs describe such shortcomings.

Sexual violence

5. The Thai Criminal Code, amended in 2019, criminalizes various forms of sexual violence in sections 276 to 287, including rape and indecent assault. It also addresses actions intended to bully, harass, shame, trouble, or annoy another person under section 397. Yet, significant shortcomings remain, as described below.

Rape and indecent assault

6. Section 1(18) of the Criminal Code incorporates a narrow definition of rape, excluding non-consensual sexual penetration involving objects or body parts other than sexual organs. Such acts are classified as indecent assault and potentially subject to lesser penalties,² despite the fact that to fully align with the Convention and other international standards, the law should explicitly encompass all types of non-

¹ See also: ICJ and JPF, 'Women's Access to Justice: Identifying the Obstacles & Need for Change in Thailand,' 2012, available at: <https://www.icj.org/wp-content/uploads/2012/08/ICJ-JPF-Report-Thailand-Womens-Access-to-Justice-English.pdf>. The ICJ is currently updating the report, which is expected to be available by the second quarter of 2025.

² However, if the assault involves the use of an object or a body part other than sexual organs with another person's sexual organ or anus, it will be subject to the same penalty as rape. Yet this definition excludes certain forms of penetration—even compared to the definition of rape—most notably, oral penetration.

consensual penetration of a sexual nature, regardless of the object and body part involved, however slight.³

7. Section 276 also remains inadequate, as it does not explicitly recognize the absence of freely given consent as the essential element of rape. Instead, it defines rape as involving “threats by any means, use of violence or force, circumstances where the survivor cannot resist, or a misunderstanding that the perpetrator is another person.” The definition limits the offence to cases involving force, threats or deception, and fails to account for other situations where consent may be absent. The phrase “circumstances where they [i.e., the survivors] cannot resist” does not fully capture situations where there is a lack of consent. The law also fails to clearly define in which circumstances consent would be absent, including with respect to the relationship between consent and coercive circumstances. These deficiencies may hinder prosecutions and are inconsistent with the Convention, as construed by the Committee in its General Recommendation No. 35 and other jurisprudence.⁴
8. SHero’s experience supporting GBV survivors in rape cases shows that investigators often rely heavily on evidence of physical resistance, disregarding other circumstances that may indicate a lack of consent. The Royal Thai Police (RTP)’s 2021 Investigation Manual reflects this flawed approach. While the manual acknowledges that consent should be considered, many of the recommended questions focus on physical resistance. Examples include: “Was force used, or did the survivor fight back?” and “did the survivor shout for help, and did anyone come to assist?”.⁵ Although other types of questions are also listed, SHero has observed that those emphasizing physical resistance are often treated as central to determining consent, leading to the dismissal of cases where such resistance had not been demonstrated.
9. Another notable 2019 amendment, section 277 bis, increased penalties for various sexual offences and introduced the death penalty for cases where rape results in the victim’s death—an approach inconsistent with international human rights law and standards.⁶ Indeed, under the ICCPR, to which Thailand is a party, the introduction of new circumstances under which the death penalty may be applied is an impermissible retrogressive measure in violation of article 6. Both the ICJ and SHero oppose the death penalty unconditionally and in all circumstances, viewing it as a violation of the right to life and the ultimate cruel, inhuman, and degrading punishment. We note that the UN General Assembly, by overwhelming majorities, has repeatedly called on all States retaining the death penalty to declare a moratorium on the practice with a view to abolition, most recently on 17 December 2024.⁷

³ Dubravka Simonovic, ‘A framework for legislation on rape (Model Rape Law): report of the Special Rapporteur on Violence against Women, Its Causes and Consequences,’ A/HRC/47/26/Add.1, 15 June 2021.

⁴ CEDAW, ‘General recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19 (1992),’ CEDAW/C/GC/35, 26 July 2017, para 29(e); CEDAW, ‘Committee Communication No. 34/2011, R. P. B. v. the Philippines,’ CEDAW/C/57/D/34/2011, para 8.10; CEDAW, ‘Committee Communication No. 18/2008, Vertido v. the Philippines,’ CEDAW/C/46/D/18/2008, para. 8.7.

⁵ RTP, ‘Police Investigation Manual,’ 2021, at 108-109.

⁶ See also: Human Rights Committee, ‘General comment No. 36,’ CCPR/C/GC/36, 3 September 2019, paras 5, 10, 35.

⁷ A/79/458/Add.2

10. The 2019 amendment also made rape and indecent assault non-compoundable offences in certain circumstances, preventing survivors from withdrawing complaints or settling with alleged perpetrators, and ensuring that legal proceedings initiated by the State must continue. However, as stated in section 281, if the individuals involved are over 15 years old and certain conditions are met—such as if the assault occurs between spouses, is not in a public setting, or does not result in grievous bodily harm or death—the offence remains compoundable. This allows certain perpetrators—especially spouses—to evade accountability and undermines the State's due diligence obligations to prevent, investigate, prosecute, punish, and provide reparations for SGBV.⁸ Another serious consequence of the offence being non-compoundable is that survivors are required to lodge a complaint within three months from the date of the offence and the identification of the offender—an unreasonably short period, especially for survivors in spousal relationships. After this period, survivors lose the right to pursue legal action.
11. In addition, the amended section 276 provides a mitigating circumstance for marital couples who wish to remain together, a provision that is inconsistent with human rights standards.⁹

Sexual Harassment

12. The Thai legal framework on sexual harassment primarily addresses workplace harassment of civil servants.¹⁰ More broadly, some forms of sexual harassment may be classified as “indecent assault” under the Thai Criminal Code. However, there is no definition provided for in the law. Section 397, paragraph 2, of the Criminal Code could also apply, as it criminalizes actions that “bully, harass, shame, trouble, or annoy another person” when done “in a manner that suggests sexual harassment”. However, the provision lacks clarity as there are also no comprehensive regulations to guide justice sector actors in addressing instances of sexual harassment across various contexts, resulting in cases where law enforcement officials have refused to file complaints of sexual harassment.
13. The situation is even more complex for technology-facilitated gender-based violence (TFGBV), as Thailand lacks a specific legal framework addressing such acts. Existing laws do not contain the degree of specificity that would make it clear they cover various forms of TFGBV, such as doxing, sextortion, online stalking, and threats to share intimate content.¹¹ In several cases observed by SHero, police often cited an inability to identify the perpetrator as the reason for not investigating. When they decided to apply section 397, paragraph 2, of the Criminal Code, the offence was treated as a “petty offence,” and the perpetrator was typically only required to pay a fine. As a possible consequence of inadequate accountability measures, the crime often recurred.

⁸ CEDAW/C/GC/35, paras 24(b).

⁹ Dubravka Šimonović, ‘Rape as a grave, systematic and widespread human rights violation, a crime and a manifestation of GBV against women and girls, and its prevention’, A/HRC/47/26, 2021, para. 88.

¹⁰ Available at: <https://www.ocsc.go.th/wp-content/uploads/2024/01/%E0%B8%A7392553.pdf>

¹¹ ICJ, ‘OGBV Law Checklist’, May 2023, available at: <https://www.icj.org/wp-content/uploads/2023/05/ICJ-OGBV-Law-Checklist.pdf>

Domestic Violence

14. In its 2017 Concluding observations, the Committee expressed concern over high prevalence of GBV, in particular domestic violence and sexual violence, which continue to be reported. It also recommended Thailand systematically collect data on GBV against women and girls—a recommendation yet to be implemented.¹²
15. There is a clear lack of consistent, accessible GBV data. One of the few official sources—covering "violence" and "domestic violence"—reveals the scale of the problem. The latest data from 2022, compiled by 15 key agencies, departments, and NGOs, recorded 24,288 incidents of violence, of which 15,707 (64.83%) were classified as domestic violence cases.¹³ While overlaps in reporting may exist, the figures suggest up to 43 people experience domestic violence daily. According to CSO sources with whom we have spoken, these statistics seriously underrepresent the actual number of cases due to underreporting, stigma, and societal bias.
16. Further, the Committee expressed concern that Thailand's Domestic Violence Victim Protection Act B.E. 2550 (2007) ('2007 DVVP') provides for reconciliation and mediation at every stage of the legal proceeding. These concerns persist, as described below, and have not been addressed. Efforts to amend the law through the Act on the Promotion of the Development and Protection of the Family Institution ('2019 PDPF') stalled due to an Emergency Decree enacted on 23 August 2019.¹⁴ The Draft Domestic Violence Victim Protection Act (No. ...) B.E. ... ('Draft DVVP Act'),¹⁵ as also referred to in Thailand's 8th Periodic Report,¹⁶ also fails to address the Committee's concerns.
17. In addition to a heavy reliance on a mediated approach, multiple shortcomings remain in the domestic violence legal framework. These include inadequate definitions of "domestic violence" and "person in the family"; burdensome barriers to investigation and prosecution—particularly due to its status as a compoundable offense and the short statute of limitations; discriminatory penalties; and poor enforcement of protection measures.

Definition of "domestic violence" and "person in the family"

18. Section 3 of the DVVP narrowly defines "person in the family," often excluding individuals in intimate partnerships or *de facto* relationships, who are not, or had not been, living together—contrary to the Committee's prescription.¹⁷ The definition in Section 4 of the 2019 PDPF is similarly restrictive. While the Draft DVVP Act expands

¹² CEDAW, 'Concluding observations on the combined sixth and seventh periodic reports of Thailand,' CEDAW/C/THA/CO/6-7, 24 July 2017, paras 20(a) and 21(d).

¹³ MSDHS, 'Report on Domestic Violence', 2022, at 72

¹⁴ Available at: https://www.ratchakitcha.soc.go.th/DATA/PDF/2562/A/092/T_0001.PDF

¹⁵ Currently, the draft is being reviewed by the Council of State and will be sent to Parliament. The draft bill can be accessed via: https://law.go.th/listeningDetail?survey_id=MzgqMERHQV9MQVdfRIJPTIRFTkQ=

¹⁶ CEDAW/C/THA/8, para 52.

¹⁷ In the case of J. I. v. Finland, X. v. Timor Leste, S. L. v. Bulgaria; CEDAW Committee, 'Concept and scope of protection against domestic violence as GBV under the CEDAW Convention, GR 35 and CEDAW Optional Protocol, and in the practice of the UN SR VAW,' available at: <https://www.ohchr.org/sites/default/files/2023-08/domestic-violence-as-gender-based-violence-under-cedaw.doc>

the definition to cover a broader range of intimate relationships,¹⁸ these expanded definitions have yet to be enacted into law.

19. The 2007 DVVP also narrowly defines “domestic violence,” as it does not explicitly encompass other forms of violence, including sexual abuse¹⁹ and economic violence that may restrict a survivor’s ability to lead an independent economic life.²⁰ In response to the Committee’s inquiry as set out in the List of Issues,²¹ while the 2019 PDPF and the Draft DVVP Act expand this definition—adding harm to liberty or reputation, sexual harassment and sexual abuse—neither law is in effect, leaving these gaps unresolved.

Compoundable Offence

20. Despite Thailand’s obligation to promptly, thoroughly and impartially investigate with a view to bring perpetrators to justice in fair trials and impose appropriate penal sanctions, the 2007 DVVP contains provisions that may serve to hinder this objective. This includes Section 4 where domestic violence remains a “compoundable” offence.
21. Although the law states that it does not affect the prosecution of other criminal offences, it exempts acts of physical and mental assault not amounting to grievous bodily harm under section 295 of the Criminal Code—in other words, the most commonly reported forms of domestic violence. By contrast, similar acts under Section 295 committed outside a domestic setting are non-compoundable. This distinction reinforces the harmful notion that violence within a family or intimate relationship is effectively more tolerable.

Ex-officio Investigation and Statute of Limitation

22. Sections 6 and 7 of the DVVP require survivors to file a complaint within three months of the incident unless they “do not have the ability or opportunity to file the complaint by themselves,” in which case officials may act on their behalf. This requirement to file a complaint, with only a narrow exception, contradicts international standards—including those positioned by the Committee—which call for *ex officio* prosecution²² when appropriate to avoid *de facto* impunity.
23. Additionally, while the Draft DVVP Act expands the grounds on which officials may file complaints, this possibility remains conditional to the survivor’s willingness to come forward. Even though the time limit would increase from three to six months under

¹⁸ This includes couples who express their relationship publicly or share a deep emotional bond, regardless of gender, as well as those with deep emotional connection even if they are not related by kinship.

¹⁹ CEDAW Committee, ‘X. and Y. v. Georgia,’ Communication No. 024/2009, CEDAW/C/61/D/24/2009, 13 July 2015.

²⁰ CEDAW Committee, ‘Kell v. Canada,’ Communication No. 19/2008, CEDAW/C/51/D/19/2008, 26 April 2012.

²¹ CEDAW Committee, ‘List of issues and questions prior to the submission of the eighth periodic report of Thailand,’ CEDAW/C/THA/QPR/8, 4 November 2022, para 9(c)

²² CEDAW/C/GC/35, para 32(a); and CEDAW, ‘General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women,’ CEDAW/C/GC/28, 16 December 2010, para 34.

the draft,²³ this may still be insufficient for some survivors to initiate legal proceedings or even express willingness for officials to file a complaint on their behalf due to ongoing fear, trauma, or dependency on the abuser, which may worsen over time.

The Pro-Compromise Approach

24. Section 15 of the DVVP continues to prioritize compromise in cases of domestic violence at every stage of the prosecution, requiring courts to emphasize “the peace and co-existence of the family” during the settlement process, often compromises the survivor’s safety.
25. Section 16 further allows the appointment of conciliators—including parents, guardians, relatives, or other assigned persons—who are neither independent nor trained in GBV response.²⁴ SHero has observed that “lay judges”²⁵ are frequently appointed, many of whom lack an understanding of domestic violence dynamics and the need for a survivor-centered approach.
26. While the 2019 PDPF is still being phased out, it fails, in its current form, in any event, to address the concerns noted above. As indicated by its title and preamble, its primary focus is the promotion and development of “the family institution.”²⁶ The 2019 PDPF also mandates the “Promotion and Protection of Family Institution Center” under the Ministry of Social Development and Human Security (MSDHS) to simultaneously promote and improve the family institution, protect persons in the family from domestic violence, mediate disputes, and propose to courts temporary measures—known as “safety protection measures.”²⁷ This conflation of roles creates conflicts of interests and risks violations of the Convention.
27. With regard to the Draft DVVP Act, the draft bill continues to allow for mandatory alternative dispute resolution without explicitly enshrining the free and informed consent of the survivors as an essential requirement.²⁸ It replaces section 15 of the DVVP, changing the term “compromise” to “producing a plan to address and prevent domestic violence” by the relevant authorities, which must receive court approval. Yet, the objective to “[p]reserve and protect the marital status of men and women or partners who wish to remain together as husband and wife” is still explicitly recognized in the bill.

Penalties

28. Under Section 4 of the 2007 DVVP, domestic violence is punishable by up to six months’ imprisonment, a fine not exceeding 6,000 baht (approx. 175 USD), or both. In contrast, section 295 of the Criminal Code—covering bodily or mental harm not amounting to grievous bodily harm—carries a penalty of up to two years’ imprisonment

²³ Section 8

²⁴ CEDAW/C/GC/35, para 32(b).

²⁵ A lay judge is a person assisting a judge in a trial. Lay judges are appointed volunteers and often require some legal instruction.

²⁶ Hi Focus, ‘Dissecting the Family Promotion Act: The Content Has Lost Its Direction, Only Focus on Mediation and the Enduring Myth of ‘Tongue and Teeth’’, 15 September 2019, available at: <https://www.hfocus.org/content/2019/09/17735>

²⁷ Sections 13, 22-24 and 28-29

²⁸ CEDAW/C/GC/35, para 32(b)

or a fine not exceeding 40,000 baht (1,180 USD). Given Thailand's obligation to impose "appropriate penal sanctions" that are "commensurate with the gravity of the offence,"²⁹ this disparity reflects a legal framework that effectively treats domestic violence more leniently than the offences of similar gravity committed outside the domestic sphere.

29. Similarly, section 5 of the Draft DVVP Act maintains largely the same penalties as the 2007 DVVP, with the only change being an increase in the maximum fine from 6,000 to 60,000 baht (approx. 1,750 USD).

Protection Measures

30. Notwithstanding the Committee's 2017 recommendation that Thailand ensure survivors of domestic violence have access to protection orders,³⁰ and Section 10 of the 2007 DVVP granting officials the authority to impose temporary measures to alleviate the survivor's suffering, SHero has observed that these powers have rarely exercised, and some authorities are not even aware that they have the power to do so. Where imposed, measures often lack effective follow-up to ensure their implementation.

31. This is also reflected in the latest statistics compiled by the MSDHS in its 2022 annual report. Of 15,707 domestic violence incidents recorded, only 167 cases were reported to the police, and provisional relief measures were adopted in only nine cases. As for domestic violence cases directly filed in court, between 2013 and 2022, only 23 out of 883 cases filed resulted in provisional relief measures.³¹

32. Furthermore, Thailand lacks a state-run, evidence-based perpetrator intervention programme or services that systematically address behavioral change among perpetrators of domestic violence and preventing recidivism, including in cases resorted to the reconciliation under the 2007 DVVP Act. This gap not only undermines the long-term safety of survivors but also perpetuates cycles of violence within families and communities.

Gender-Related Killings (Femicide)

33. Gender-motivated killings are prosecuted as ordinary homicide under the Criminal Code, which remains Thailand's primary legal framework.

34. Section 72 of the Criminal Code allows for reduced penalties when crimes are committed under "provocation" or "violent emotion." However, according to one credible academic study, Courts frequently apply this provision in cases of intimate partner violence—often involving adultery—benefiting male defendants.³² In such cases, "violent emotion" is typically interpreted narrowly as a reaction to a single incident, rather than considering the impact of past repeated violence that may have

²⁹ CEDAW/C/GC/28, para 34; and CEDAW/C/GC/35, paras 23 and 29(a).

³⁰ CEDAW/C/THA/CO/6-7, para 21(b)

³¹ MSDHS, 'Report on Domestic Violence', 2022, at 66, 70 and 71.

³² Natthamon Tanviruch, 'The Scope and Direction of Provocation Because of Adultery', 2011, available at: http://ethesisarchive.library.tu.ac.th/thesis/2021/TU_2021_6301031636_15737_21456.pdf

influenced the victim's actions.³³ This approach discriminates against women in contravention of international standards, which call for eliminating mitigating factors like passion, honor, provocation, and violent emotion in femicide cases.³⁴

35. By contrast, and as noted in the Committee's List of Issues,³⁵ women survivors of prolonged domestic violence often face severe punishment for acts of self-defense deemed disproportionate, frequently without adequate consideration of their history of abuse, and without the ability to invoke the same legal defense, in contradiction to recommendations by several international bodies.³⁶

III. Access to Justice

36. Over the past decade, ICJ and SHero have found a significant gap between GBV incidents reported to the police and those that reached the courts. For example, according to the annual report of domestic violence crimes by the MSDHS, there was a vast discrepancy between domestic violence cases reported only to the MSDHS between 2020 and 2023 (1,789 incidents in 2020, 2,114 in 2021, and 1,802 in 2022) compared to the number prosecuted by the Office of the Attorney General (157 cases in 2020, 282 in 2021, and eight in 2022) and cases that survivors directly filed in court (53 cases in 2020, 168 cases in 2021, and 207 cases in 2022). While not every reported case may warrant prosecution, the magnitude of the gaps between reporting and prosecution signals a deficiency in accountability.³⁷

37. In addition to the legal and enforcement shortcomings outlined in Part II, several other factors contributed to low prosecution rates, including: (i) laws that create additional barriers for GBV survivors in accessing justice, subjecting them to further hardships through fear of arrest or prosecution; (ii) persistent gender stereotyping among justice sector actors; (iii) Thailand's failure to ensure gender-sensitive procedures; and (iv) inadequate essential services and support for GBV survivors. Several of these issues were cited by the Committee in its 2017 Concluding Observations³⁸ and raised again in the List of Issues.³⁹ However, there has been limited progress, resulting in a failure by Thailand to meet its obligations under articles 1, 2, 5, and 15 of the Convention.

Obstacles in the legal framework

38. One of the standout examples of laws that create substantial barriers for GBV survivors in accessing justice is Thailand's strict immigration laws. Undocumented migrants, in particular, may face arrest and deportation under Thai immigration law, including section 54 of the Immigration Act B.E. 2522 (1979), which effectively prevents them

³³ Songyot Luangkarpin, 'Cumulative Provocation', 2006, available at: https://digital.library.tu.ac.th/tu_dc/frontend/Info/item/dc:113214

³⁴ Special Rapporteur on violence against women, its causes and consequences, 'Report of the Special Rapporteur on violence against women, its causes and consequences', A/71/398, 23 September 2016, para 82(b).

³⁵ CEDAW/C/THA/QPR/8, para 5(c)

³⁶ Special Rapporteur on extrajudicial, summary or arbitrary executions, 'gender-sensitive approach to arbitrary killings,' A/HRC/35/23, 6 June 2017, paras 32 and 44; and A/78/254, para. 38.

³⁷ The reports can be accessed via: <https://dwf.go.th/contents/48156>

³⁸ CEDAW/C/THA/CO/6-7, paras 10-11.

³⁹ CEDAW/C/THA/QPR/8, para 4.

from contacting the authorities—let alone filing a complaint. SHero’s experience also reveals that, in the rare cases where undocumented migrants have sought help, a number of survivors have been arrested and threatened with deportation on the grounds of “illegal immigration” into Thailand. Even when legal proceedings against perpetrators of GBV occur, they often end in settlement due to the lengthy process or are simply discontinued because the survivors do not feel safe engaging the authorities throughout the proceedings.

39. Similarly, asylum seekers and refugees who enter Thailand “irregularly” face challenges comparable to those of undocumented migrants, as Thailand does not recognize their status and treats them as “undocumented immigrants” by law. Without legal refugee status or protection under a legal framework, they remain in legal limbo and are at risk of arbitrary arrest, detention and deportation, leaving them with minimal protection in accessing justice for GBV.
40. Documented migrant workers also face significant barriers. Restrictions on travel in border zones⁴⁰ and employer changes⁴¹ can trap them in abusive situations at home or at work. Leaving such situations may breach work permit conditions, causing them to lose their legal status and become undocumented. In some cases, SHero has found that employers have even denied workers leave to file GBV complaints with law enforcement.

Attitude of justice sector actors

41. Notwithstanding the Committee’s recommendations,⁴² the unresponsive attitude of justice sector actors toward GBV continues to obstruct access to justice. Over the past eight years, SHero has observed trials and witnessed countless incidents where justice sector actors used blaming, shaming, or retraumatizing language during questioning—exposing GBV survivors to revictimization and stigmatization. Decisions to prosecute or convict often depend on proof of injury, delayed reporting, the survivor’s background or sexual history, and their relationship with the alleged perpetrator. This reliance reflects harmful gender stereotypes and undermines Thailand’s obligations under articles 2, 5, and 15 of the Convention, in light of the Committee’s General Recommendations Nos. 33 and 35,⁴³ to ensure gender-sensitive justice and uphold equality, fair trial rights, and access to remedy.
42. In most cases SHero has represented, justice sector actors often continue to treat cases of domestic violence as a private or family matter rather than a serious crime. This deep-rooted attitude is partly influenced by laws such as the 2007 DVVP and 2019 PDPF, mentioned above. In many instances, GBV survivors are left to struggle with gathering evidence themselves, such as arranging DNA testing in rape cases for further legal proceedings.

⁴⁰ Depending on the type of permit, certain permits will not allow migrants from neighboring countries to leave the ‘specific areas,’ which usually encompass several districts in the border zones.

⁴¹ Migrants may change employers without losing legal status or facing arrest if the employer commits abuse, violates labor laws, or endangers workers, provided a new job is secured within 15 days. See: Emergency Decree on Managing the Work of Aliens B.E. 2560 (2017), as amended in 2018.

⁴² CEDAW/C/THA/CO/6-7, paras 10(c) and 11.

⁴³ CEDAW/C/GC/33, para 51(g); CEDAW/C/GC/35, paras 26(c)

43. This attitude is further reinforced by the absence of a dedicated task force within the RTP responsible for systematically handling domestic violence and other GBV cases, which would enable officers to allocate time and attention to cases requiring specialized expertise. While the RTP maintains a Division of Anti-Trafficking in Persons (ATIP) and the Division of Suppression of Child, Juvenile and Women Crimes, their structural focus remains primarily on trafficking cases. Without such mechanisms, domestic violence and GBV cases are often deprioritized, and experienced officers are frequently reassigned to crimes considered a higher priority.

Failure to ensure gender-sensitive procedures

44. Discriminatory attitudes of justice sector actors have contributed to the lack of gender-sensitive procedures and a supportive environment necessary for reporting GBV crimes,⁴⁴ as required by the Committee's General Recommendation No. 33. This has led to dismissive and retraumatizing treatment of survivors and a failure to prosecute such crimes. For example, survivors may be interviewed three to four times about the incidents—by the inquiry officer, a multidisciplinary team (if the survivor is a child), public prosecutors, judges, and lawyers—which can traumatize them further.

45. Some safeguards are unfortunately not adhered to by responsible authorities, leaving survivors in vulnerable situations. For instance, according to the Head of the Supreme Court's Recommendations regarding Guidelines to Treat Victims in Criminal Cases B.E. 2563 (2020),⁴⁵ sexual and domestic violence survivors should not be required to confront the alleged perpetrator. Courts should allow testimony via video conferencing and ensure proper court facilities, such as separate waiting rooms for survivors and witnesses. However, as observed by SHero, in very few cases are such guidelines followed by judges.

46. Similarly, at the initial reporting and investigative stage, separate waiting or private rooms are not always available for survivors to register their complaints confidentially and in a stigma-free environment, particularly at police stations outside Bangkok.

Essential services and support for GBV survivors

47. As highlighted in the List of Issues⁴⁶ and the Committee's 2017 recommendations that Thailand ensure adequate access to shelters, crisis facilities, as well as legal remedies for survivors of domestic violence,⁴⁷ the availability, accessibility and quality of essential services for GBV survivors remain severely lacking. These include a shortage of trained female inquiry officials to interview survivors,⁴⁸ a lack of lawyers to represent cases, a scarcity of interpreters in all languages—particularly female interpreters—and a shortage of MSDHS officers, who are key personnel under several laws protecting survivors of GBV. Additionally, there are no specific funds allocated for reparations for GBV survivors, nor are there State-run emergency shelters specifically designated for them.

⁴⁴ CEDAW/C/GC/33, para 51(d)

⁴⁵ Available at: <https://opsc.coj.go.th/th/content/category/detail/id/8/cid/1145/iid/218017>

⁴⁶ CEDAW/C/THA/QPR/8, para 9(d)

⁴⁷ CEDAW/C/THA/CO/6-7, paras 20(c) and 21(b) and (c)

⁴⁸ CEDAW/C/THA/CO/6-7, para 11(d)

48. According to Article 133 of the Criminal Procedure Code, GBV survivors should be interviewed by a female inquiry officer unless they consent to be interviewed by a male officer or in instances where it is necessary to interview with a male officer. However, in most cases monitored by SHero, female survivors were not interviewed by female inquiry officials. This is primarily due to the low number of women in law enforcement, with many police stations across Thailand lacking female inquiry officers. According to the RTP's information provided to the National Human Rights Commission of Thailand in early 2025, there were only 763 female inquiry officers out of 11,607 nationwide—just 6.6%—despite the country having 1,482 police stations.⁴⁹ The situation was further exacerbated when the Royal Police Cadet Academy announced that it would admit only men starting from 2019, thus limiting opportunities for women to join law enforcement.⁵⁰ Furthermore, even when female officers were present, they were often not adequately trained to assist with GBV cases.
49. Similarly, there is a notable lack of female interpreters and a general shortage of Thailand's Ministry of Justice-certified interpreters for languages other than English and Chinese.⁵¹ In terms of legal aid, there is also a shortage of trained lawyers stationed at police stations who can immediately take up GBV cases when a complaint is filed. This shortage hinders GBV survivors' access to high-quality, gender-sensitive legal advice and representation and, in turn, their ability to seek and obtain justice and effective remedies. According to the President of the Human Rights Lawyer Association, most lawyers at police stations are only mandated to provide legal advice and have limitations in representing cases.⁵²
50. Officers of the MSDHS stationed at the Prevention of Domestic Violence Center—tasked with enforcing the provisions of the 2007 DVVP (and the 2019 PDPF, once in effect)⁵³—are also facing a shortage of human resources. In Shero's experience, many offices have only a few officers per province, with several provinces having as few as one officer. This greatly limits their ability to perform duties outlined in various laws. This shortage was acknowledged by the government in the Emergency Decree enacted on 23 August 2019, which phased out the implementation of the 2019 PDPF.⁵⁴
51. Most significantly, no law, including the 2007 DVVP, allocates specific funds for reparations and assistance to GBV survivors. This creates a gap in prevention and support efforts, leaving many survivors without adequate assistance.
52. In the absence of financial support, there are also no State-run emergency shelters specifically for survivors of GBV and/or domestic violence, even though such shelters

⁴⁹ Information obtained from interview with Supatra Nacaphew, National Human Rights Commissioner of Thailand, on 7 March 2025. See also: Move Forward Party, 'Female police officers and the justice system in sexual harassment cases', 10 July 2022, available at: <https://think.moveforwardparty.org/article/urban-development/2783/>

⁵⁰ See: Khaosod English, 'women Banned From Police Academy Starting 2019,' 3 September 2018, available at: <https://www.khaosodenglish.com/news/2018/09/03/women-banned-from-police-academy-starting-2019/>

⁵¹ This shortage was highlighted by a police officer during a workshop, titled 'The Non-Discriminated Justice System'. See: <https://www.icj.org/thailand-the-icj-engages-with-justice-sector-authorities-in-dialogues-to-advance-a-human-rights-compliant-justice-system/>.

⁵² Ibid.

⁵³ See also Thailand's 8th Periodic Report, CEDAW/C/THA/8, para 54.

⁵⁴ Available at: https://www.ratchakitcha.soc.go.th/DATA/PDF/2562/A/092/T_0001.PDF

are vital in fulfilling Thailand's obligations under the Convention, as affirmed in the Committee's General Recommendation No. 35.⁵⁵ Although privately run shelters do exist, they are limited in reach and capacity. State-run shelters established under the Child Protection Act B.E. 2546 (2003)—known as Children and Family Homes, as mentioned in Thailand's 8th Periodic Report,⁵⁶ which are available in every province—are also designated to provide services for domestic violence survivors.⁵⁷ However, frontline officials in many provinces often lack clarity regarding who holds the decision-making authority to admit survivors without children. As a result, these survivors frequently face difficulties in accessing such shelters.

53. Additionally, there is a shortage of adequate long-term psychological and counseling services, which are essential for the recovery of survivors, as required by the Convention.⁵⁸ The available services face limitations, primarily due to insufficient allocation of financial resources. According to SHero's experience, although a support system should streamline services among various agencies, there remains confusion regarding which agencies are responsible for long-term psychological and counseling services—whether it be the MSDHS or the Ministry of Health's One-Stop Service Center (OSCC) stationed at various hospitals. Furthermore, the Ministry of Health's OSCC, also referred to in Thailand's 8th Periodic Report,⁵⁹ is beset by shortcomings, including a lack of financial resources to support survivors in the long term and inconsistent activity in the hospitals where it is stationed. In some hospitals, staff members have limited knowledge of the OSCC's functions, while only a few are truly active in providing the necessary support.

54. Thailand lacks an institutionalized multidisciplinary team (MDT) response mechanism to provide coordinated and survivor-centered support for GBV survivors from the early stages of intervention. There is no formal system for assigning trained case managers to oversee individual cases and facilitate timely coordination among responsible agencies. The absence of standardized protocols, dedicated personnel, and clear inter-agency cooperation results in fragmented and inconsistent support services. This falls short of Thailand's obligations under the Convention in light of General Recommendation No. 35, which calls for the establishment and implementation of effective multi-sectoral referral mechanisms to ensure survivors of GBV have effective access to comprehensive services.⁶⁰

IV. Recommendations

55. Against the background of the information provided within this submission, and consistent with its obligations under the Convention, the ICJ and SHero request the Committee to affirm that the Royal Thai Government must:

⁵⁵ CEDAW/C/GC/35, para 3(iii)

⁵⁶ CEDAW/C/THA/8, para 54.

⁵⁷ MSDHS's Department of Children and Youth, 'Management of Children and Family Shelters,' accessed on 15 May 2025, available at: https://www.dcy.go.th/public/mainWeb/file_download/1646580636011-740931321.pdf?utm_source=chatgpt.com

⁵⁸ CEDAW/C/GC/35, para 31(iii)

⁵⁹ CEDAW/C/THA/8, para 54.

⁶⁰ CEDAW/C/GC/35, para 31(v).

In relation to the legal provisions in respect of combatting GBV

- a) Ensure the comprehensive collection and analysis of data from all agencies on GBV, disaggregated by age, ethnicity, geography, and the relationship between victim and perpetrator, as well as on cases involving femicide investigations, to inform future investigations and prevention efforts.
- b) Amend Section 276 of the Criminal Code that criminalizes rape to ensure that it:
 - Centers on consent that is voluntary, genuine and results from free will, including express provisions to not infer consent from the silence of the victim, non-resistance, whether verbal or physical; past sexual behaviour; or the survivor's status, occupation or relationship to the accused; and to consider coercive circumstances in determining consent;
 - Does not allow exceptions that make it a compoundable offence or provide for mitigating circumstances for marital couples, without appropriate safeguards for determining whether the survivor's consent is freely given;
 - Includes all types of non-consensual penetration of a sexual nature in the definition; and
 - Abolishes the death penalty in all circumstances, including for cases where rape results in the victim's death.
- c) Clearly define, prohibit, and criminalize all forms of sexual harassment and TFGBV that violate the physical, sexual, or psychological integrity of survivors;
- d) Amend the 2007 DVVP and the Draft DVVP Act to ensure that:
 - The definition of "domestic violence" explicitly encompasses other forms of violence, such as harm to liberty or reputation, sexual abuse, and economic violence, and the definition of "persons in the family" includes individuals in intimate partnerships or *de facto* relationships, regardless of whether they are or were living together;
 - Domestic violence is made a non-compoundable offence, and other provisions that automatically render offences compoundable are amended accordingly;
 - *Ex officio* prosecution is allowed so that when violence is brought to the attention of the authorities, they must, of their own motion, immediately, thoroughly, and impartially investigate such violence, and where warranted by that investigation, prosecute those responsible vigilantly and promptly;
 - Any applications of statute of limitations take into consideration the circumstances hindering the survivor's capacity to report the violence suffered, is of long duration and proportionate to the seriousness of this offense, and should never preclude access to justice;
 - Any resort to alternative dispute resolution is not mandatory and is limited to exceptional cases. It should, in no case, prevent prosecutions in serious domestic violence cases from going forward. If allowed, it should also be initiated by and with the free and informed consent of the survivor and carried out by independent mediators and conciliators—professionals specially trained to understand and adequately intervene in cases of GBV.

Additionally, ensure that these processes do not prioritize “family solidarity” over the safety of survivors; and

- Impose appropriate penalties that are commensurate with the gravity of the offense for domestic violence. This includes sanctions that are no lower than those for similar offenses of the same gravity under other general criminal laws, such as the Criminal Code.
- e) Amend the 2019 PDPF to repeal provisions handling domestic violence;
 - f) Review, evaluate, and update national laws to effectively address gender-related killings, including by considering the enactment of a femicide law; and
 - g) Ensure that Section 72 of the Criminal Code is not applied in a way that excuses perpetrators of femicide or discriminates against women, while allowing its application in cases of cumulative provocation, such as acts committed by survivors in response to prolonged domestic abuse.

In relation to barriers to accessing justice for GBV survivors

- h) Amend the Immigration Act and other immigration-related regulations to ensure that GBV survivors may report GBV without fear of prosecution, detention or deportation on grounds of “illegal immigration”, including by adopting a law that recognizes the legal status of asylum seekers and refugees and provides protection for them;
- i) Enhance training for justice sector actors and other responsible authorities on the application of international human rights law and standards to the investigation, prosecution, adjudication, and sentencing of GBV-related criminal offences;
- j) Prevent and address gender stereotypes, promote gender sensitivity among justice system professionals, and establish specialized GBV units within the police to ensure consistent and sensitive application of the domestic law;
- k) Amend the RTP’s 2021 Police Investigation Manual, with meaningful participation from civil society organizations, and adopt legislative provisions, regulations, or guidelines for prosecutors and the judiciary regarding the applicable rules of evidence in cases of sexual violence and what the requirement of consent entails, in compliance with international law and standards;
- l) Eliminate practices that expose GBV survivors to secondary victimization throughout legal proceedings and ensure the creation of supportive environments that encourage them to assert their rights. This includes ensuring the effective implementation of the Supreme Court's Recommendations regarding Guidelines to Treat Victims in Criminal Cases B.E. 2563 (2020);
- m) Increase the number of trained female police officers and enhance women's participation in the justice sector as a matter of urgency, including by removing the discriminatory policy barring the recruitment of women to the Royal Police Cadet Academy and taking steps to appoint women to all ranks of the RTP;

- n) Increase the number of trained lawyers stationed at police stations and ensure that they can effectively represent and provide high-quality, gender-sensitive free legal aid to survivors and offer referrals to other necessary support services;
- o) Increase the number of interpreters in other languages, particularly female interpreters;
- p) Establish effective state-run perpetrator intervention programmes or services that systematically address behavioral change among perpetrators and prevent recidivism;
- q) Establish an institutionalized multidisciplinary team response mechanism to provide coordinated, survivor-centered support from the early stages of intervention;
- r) Establish specific funds to provide reparations and other forms of assistance to GBV survivors; and
- s) Ensure the availability of State-run shelters for GBV survivors and other supportive services, such as long-term psychological and counseling services and access to sexual and reproductive health services which could aid in recovery.