

Office of the Council of State (Committee No. 9)

No. 1 Phra Athit Road, Phra Borom Maha Ratchawang Subdistrict

Phra Nakhon District, Bangkok 10200

saraban@ocs.go.th

4 March 2026

Dear Committee No. 9 of the Office of the Council of State,

Re: Recommendations on the Draft Domestic Violence Victim Protection Act (No. ...) B.E. ...

The International Commission of Jurists is non-governmental organizations consisting of distinguished judges and lawyers from all regions of the world working to promote the rule of law and legal protection of human rights.

We would like to offer comments on the Draft Domestic Violence Victim Protection Act (No. ...) B.E. ... ("Draft Act"), intended to replace the Domestic Violence Victim Protection Act B.E. 2550 (2007) ("2007 Act"). Following the Office of the Council of State's public hearing on the Draft Act and the invitation for consultation between 18 February and 4 March 2026,¹ we respectfully take this opportunity also to provide recommendations for your consideration.

The comments and recommendations set out below are based on Thailand's obligations under international human rights law, particularly under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), to both of which Thailand is a party. We believe that the proposed amendments would help address existing gaps and strengthen compliance with these obligations.

We draw the Committee's attention to our November 2025 report titled *Access to Justice for Sexual and Gender-Based Violence in Thailand: A Baseline Study*.² The report provided a detailed analysis regarding the compliance of both the 2007 Act and the earlier version of the Draft Act introduced by the Ministry of Social Development and Human Security in 2024 with international human rights law. Many of the findings remain relevant to the current Draft Act and should be read alongside these comments for further context and detail.

The report identified several major shortcomings of the draft legislation, including: (i) an inadequate definition of "domestic violence" and "person in the family," so limiting the scope of protection; (ii) substantial barriers to effective investigation and prosecution,

¹ Available at:

https://www.law.go.th/listeningDetail?survey_id=NjU2NERHQV99MQVdfRIJPTIRFTkQ=

² ICJ, 'Access to Justice for Sexual and Gender-Based Violence in Thailand: a Baseline Study', November 2025, available at: https://www.icj.org/wp-content/uploads/2025/11/Baseline-study_GBV_Thailand.pdf ('ICJ 2025 SGBV Report').

including the classification of domestic violence as a compoundable offence and the applicability of an overly short statute of limitations; (iii) a systemic prioritization of negotiation and “reconciliation” over prosecution even where inappropriate, along with a prioritization of “peace and co-existence of the family,” often at the expense of survivors’ rights and safety; and (iv) disproportionately lenient penalties for certain offenses. Unfortunately, several of these deficiencies remain in the Draft Act.

I. Positive Developments in the Draft Act

We note several positive provisions in the Draft Act, which a number of civil society organizations³ and domestic violence victims/survivors have long promoted, and which were also included in the ICJ report referenced above. These include the introduction, in Part II of the Draft Act, of a specific budget to support implementation. This includes initial financial assistance for relief to persons subjected to domestic violence, for which the perpetrator must in the first instance be responsible, as provided in the Plan to Address and Prevent Domestic Violence; expenses arising from arranging for the person subjected to domestic violence to stay in a safe place if there is a risk that they may be subjected to violence again; and expenses arising from arranging for the person subjected to domestic violence to receive medical examination or treatment, or to obtain counselling or advice from a psychiatrist, psychologist, psychiatric nurse, or social worker.

Another positive development is the introduction of a provision recognizing that the status of being subjected to repeated domestic violence may serve as a mitigating circumstance to reduce penalties.⁴ Section 41 of the Draft Act provides that the court may impose a penalty lower than that prescribed by law, as it deems appropriate, if it appears during the proceedings that the perpetrator committed the act because they, or a family member, had been repeatedly and unlawfully subjected to abuse, resulting in severe physical or psychological impact that drove them to commit an act of domestic violence constituting a criminal offence.

II. Key Areas of Concern and Recommendations

1. Definition of “Domestic Violence”

Although the definitions of “domestic violence” has been expanded under the Draft Act compared to the 2007 Act, gaps remain in bringing them into full compliance with international human rights law and standards.

Specifically, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) — the authoritative body that that interprets and monitors implementation of CEDAW — has made clear that domestic violence encompasses not only physical, psychological, or sexual harm, but also “economic violence,” which includes actions that

³ iLaw, ‘The Network Against Domestic Violence has submitted a draft Domestic Violence Victim Protection Bill, aimed at providing comprehensive protection to victims and ensuring serious accountability for perpetrators’, 3 April 2025, available at: <https://www.ilaw.or.th/articles/52063>

⁴ Subject to international human rights law and standards, in some cases the imposition of the death penalty itself may amount to “femicide” and an arbitrary deprivation of the right to life— particularly where courts fail to consider crucial sentencing factors, such as a long history of domestic violence. Several experts in Thailand have also long raised concerns about cases in which women have received the most severe sanctions, including the death penalty or lengthy prison terms, for killing their intimate partners or others while acting in self-defence or otherwise in response to sustained domestic violence, despite clear evidence supporting their claims and without the application of mitigating circumstances. Such acts are often characterized as “disproportionate” or “excessive,” and the women’s status as survivors of repeated domestic violence is overlooked. For more, see ICJ, SGBV Report (2025), at 18–19.

restrict a survivor's ability to lead an independent economic life, for instance when a partner prevents them from working.⁵

While Section 4 of the Draft Act would expand the definition from the 2007 Act to include sexual abuse and sexual harassment, as well as harm to reputation, economic harm is not explicitly referenced. While such conduct may arguably fall under the clause referring to "any act that causes a family member to be placed under one's authority or control in an unjust manner," the absence of explicit reference to economic means is likely to mean that it will not be applied in practice.

Recommendation

- Amend Section 4 of the Draft Act so that the definition of "domestic violence" explicitly encompasses economic violence.

2. Definition of "Person in the Family"

The CEDAW Committee has also recognized that domestic violence includes intimate partner violence, regardless of marital status or cohabitation.⁶ Section 4 of the Draft Act, however, would limit protection to "persons in the family," defined to include those in marital relationships, former spouses, individuals cohabiting as husband and wife without a marriage certificate, parents, children, adopted parents, adopted children, persons who provide support or are supported and raised as a child, siblings of the same father and mother or of the same father or mother, uncles and aunts (on either the paternal or maternal side), and persons who live in the same household and are mutually dependent.

This definition, which is largely similar to that in the 2007 Act, has often been interpreted and applied by justice sector actors in a manner that excludes individuals in intimate or *de facto* relationships who do not live or have not lived together, thereby conflicting with the object and purpose of the CEDAW and contradicting the interpretation of CEDAW adopted by the CEDAW Committee.

By contrast, Section 32 of the Draft Act defines the scope of "persons in the family" entitled to well-being protection under that provision to include "romantic partners who present themselves as such to the public or who share a deep emotional bond, regardless of whether they are of the same or different sex." It is therefore anomalous and inconsistent with the Draft Act as a whole that this category of intimate relationship is not included in the main definition in Section 4, which applies throughout the Draft Act.

Recommendation

- Amend Section 4 of the Draft Act to provide that the definition of "persons in the family" includes individuals in intimate partnerships or *de facto* relationships, regardless of whether they are or had been living together.

⁵ CEDAW Committee, 'Kell v. Canada,' Communication No. 19/2008, UN Doc. CEDAW/C/51/D/19/2008, 26 April 2012. Council of Europe Convention on preventing and combating violence against women and domestic violence defined "domestic violence" as "all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim."

⁶ In the case of J. I. v. Finland, X. v. Timor Leste, S. L. v. Bulgaria, see: 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 - Main issues identified, recommendations and guidance to SPs, good practices,' accessed on 16 September 2024, available at: <https://www.ohchr.org/sites/default/files/2023-08/domestic-violence-as-gender-based-violence-under-cedaw.doc>

3. Compoundable Offence

The Committee against Torture (CAT Committee) — the authoritative body that interprets and monitors the implementation of the UNCAT — and the CEDAW Committee have both affirmed that, in all cases of domestic and other forms of violence against women, States have an obligation to “initiate criminal proceedings, bring the perpetrator(s) to trial, and impose appropriate penal sanctions,”⁷ including “by applying criminal law and, as appropriate, *ex officio* prosecution.”⁸ This means that when allegations of such violence come to the attention of the authorities, they must promptly, effectively, and impartially investigate them and, where the evidence so warrants, prosecute those responsible. This obligation applies whether or not the survivor has filed a complaint, and even if a complaint is subsequently withdrawn.

Nevertheless, similarly to the 2007 Act, Section 10 of the Draft Act would continue to classify domestic violence as a compoundable offence. This means that survivors may withdraw complaints and/or reach settlements with alleged perpetrators, resulting in the termination of legal proceedings.

While the law provides that such settlements do not affect the potential prosecution of other criminal offences, an exception is made for acts under Sections 295 (causing bodily and mental injury not amounting to grievous bodily harm), 391 (committing acts of violence not resulting in bodily or mental harm), 392 (causing another person to feel fear or alarm by making threats), 393 (insulting another person in their presence or by means of publication), 397 (committing any act against another person that constitutes bullying, oppression, intimidation, or causes humiliation or distress), and 398 (abuse of a child under fifteen years of age, a sick person, or an elderly person) of the Criminal Code. These offences remain compoundable if the perpetrator fully complies with the “plan to address and prevent domestic violence” as set out in Section 24.

This is significant because physical and mental violence are among the most commonly reported forms of domestic abuse. In practice, for such violence to be treated as non-compoundable, it must meet the higher threshold under Section 297 of the Criminal Code, which requires particularly severe harm, such as an infirmity or illness causing severe bodily pain for more than 20 days.⁹ As a result, if a survivor’s injuries require treatment for fewer than 20 days, the offence remains compoundable and legal proceedings may be discontinued at any time. This creates a substantial barrier to justice and increases the risk of pressure being exerted on survivors to withdraw complaints.

In addition, violent acts under Section 295 of the Criminal Code are considered non-compoundable when committed outside the context of domestic violence. This distinction reinforces harmful social norms that treat violence within the family or intimate relationships as less egregious than violence in other contexts.

⁷ CEDAW Committee, ‘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 (‘CEDAW General Recommendation No. 28’); CAT Committee, ‘General comment No. 2 (2007) on the implementation of article 2 by States parties,’ UN Doc. CAT/C/GC/2, 24 January 2008, para 18 (‘CAT General Comment No. 2’); and CAT Committee, ‘General comment No. 3, Implementation of article 14 by States parties,’ UN Doc. CAT/C/GC/3, 13 December 2012, para. 23. (‘CAT General Comment No. 3’).

⁸ CEDAW Committee, ‘General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 (1992),’ UN Doc. CEDAW/C/GC/35, 2017, para 32 (a) (‘CEDAW General Recommendation No. 35’).

⁹ Other express forms of harm include loss of sight or hearing, cutting of the tongue, loss of the sense of smell, loss of an organ, permanent disfigurement of the face, abortion, permanent insanity, or a chronic illness lasting throughout life.

These concerns have been raised by UN treaty bodies. In its 2014 concluding observations on Thailand's initial report, and again in its 2024 concluding observations on Thailand's second report,¹⁰ the CAT Committee questioned the classification of domestic violence as a compoundable offence and recommended that Thailand revise the 2007 Act to better protect victims and survivors.¹¹

Recommendation

- Amend Section 10 of the Draft Act to ensure that domestic violence, as well as other Criminal Code offences that are automatically rendered compoundable in the present draft — including acts of physical and mental assault under Section 295 of the Criminal Code — are made non-compoundable.

4. Ex-officio Investigation

The Draft Act would condition the initiation of criminal investigations and prosecutions on the survivor's decision to pursue legal action. This approach is inconsistent with international standards and facilitates impunity in cases where a survivor may be fearful, coerced, or otherwise unable to register a complaint. To ensure accountability, prosecutors must be empowered and, in some cases, required to initiate prosecution *ex officio*.

While the Draft Act slightly expands the scope of *ex officio* action compared to the 2007 Act, Section 13(8) allows authorities to file a complaint on behalf of the survivor only if the survivor has expressed willingness to proceed but is unable to file due to circumstances, mental condition, lack of opportunity, or unwillingness to file personally. However, this provision does not fully satisfy the obligation under international law to investigate proactively once authorities become aware of domestic violence, regardless of whether the survivor has expressed willingness to complain.

Certain civil society organizations and lawyers have reported that, in practice, survivors face serious barriers to filing complaints or even expressing their willingness to do so.¹² These include lack of awareness of their right to report, isolation, fear, trauma, coercive control by the perpetrator, and financial dependence.¹³ As it stands, the Draft Act does not adequately address such challenges.

These concerns have been raised by the CAT Committee. In its 2024 concluding observations on Thailand's second report, the CAT Committee urged Thailand to adopt *ex officio* investigations in domestic violence cases.¹⁴

Recommendation

- Amend Section 13(8) of the Draft Act to allow for full *ex officio* investigation and prosecution, so that when domestic violence is brought to the attention of the authorities, they must, of their own initiative, promptly, thoroughly, and

¹⁰ CAT Committee, 'Concluding observations on the second periodic report of Thailand', UN Doc. CAT/C/THA/CO/2, 9 December 2024, para. 37 ('2024 CAT Concluding Observations on Thailand').

¹¹ CAT Committee, 'Concluding observations on the second periodic report of Thailand', UN Doc. CAT/C/THA/CO/1, 2014, para. 16 ('2014 CAT Concluding Observations on Thailand').

¹² ICJ 2025 SGBV Report, at 24.

¹³ *Ibid.*

¹⁴ 2024 CAT Concluding Observations on Thailand, paras. 36-37.

impartially investigate the case and, where warranted by the evidence, prosecute those responsible.

5. Statute of Limitations

The short statute of limitations for prosecuting cases of domestic violence poses another significant barrier to justice. Largely similar to the 2007 Act, Section 20 of the Draft Act would require survivors to file a complaint within three months from the time the person subjected to domestic violence had been in a position — in terms of circumstances and mental condition — and has the opportunity to notify or file a complaint, after which legal action is no longer permitted.

While this provision contains language that to some extent takes into account circumstances that may hinder survivors' capacity to report the violence to competent services or authorities,¹⁵ a three-month limitation period will often be insufficient for many survivors. Fear, trauma, coercive control, and financial or emotional dependence on the perpetrator often persist or intensify over time, further delaying reporting, as emphasized by the CAT Committee.¹⁶

In addition, under general criminal law, offences such as causing bodily or mental harm not amounting to grievous bodily harm under Section 295 of the Criminal Code are subject to a 10-year statute of limitation. The significant disparity between the limitation period applicable to domestic violence and that applicable to comparable offences committed outside the domestic sphere, again, reinforces harmful social norms that treat violence within the family or intimate relationships as less egregious than violence in other contexts.

Furthermore, where domestic violence is committed in the form of rape — which the CAT Committee has recognized as a form of torture, including when committed by non-State actors such as in domestic violence cases¹⁷ — such offences should not be subject to any statute of limitation, in accordance with the CAT Committee's interpretation of the legal obligations under the UNCAT.¹⁸

Recommendations

- Amend Section 20 of the Draft Act to ensure that the statute of limitations gives due consideration to circumstances that hinder survivors' ability to report the violence suffered, is proportionate to the seriousness of the offence — at a minimum, not shorter than the limitation periods under the Criminal Code — and does not preclude access to justice; and
- Amend Section 20 to ensure that where the offence amounts to rape or other severe sexual violence, it is not subject to any statute of limitation.

¹⁵ CEDAW General Recommendation No. 35, para 29(e).

¹⁶ According to the CAT Committee in its General Comment No. 3, para 40, for many victims, the passage of time does not attenuate the harm; in some cases, the harm may increase due to post-traumatic stress that requires medical, psychological, and social support, which is often inaccessible to those who have not received redress.

¹⁷ CAT General Comment No. 2, para. 18. The Committee considered that a State's failure to exercise due diligence to prevent, investigate, punish, and provide remedies for acts of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity. The State's indifference or inaction provides a form of encouragement and/or de facto permission, including in cases of gender-based violence, such as rape, domestic violence, female genital mutilation, and trafficking.

¹⁸ CAT's General Comment No. 3, para 40.

6. Alternative Dispute Resolution: “Plan to Address and Prevent Domestic Violence”

In accordance with international human rights law and standards, considerations such as marital unity or cohabitation should never be determinative in establishing whether an act of domestic violence has occurred or whether prosecution should proceed. Mediation or other settlement procedures should be considered only in exceptional circumstances and only after a specialized, trained team has conducted a thorough assessment to ensure that the survivor’s free and informed consent has been obtained and that there are no ongoing risks to the survivor or their family members. Such processes must be conducted by professionals with specialized training in handling cases of sexual and gender-based violence. Most importantly, they must not operate as a barrier to a survivor’s access to formal justice mechanisms.¹⁹

One notable improvement in the Draft Act is the removal of Section 15 of the 2007 Act, which effectively prioritized negotiated settlement at every stage of the prosecution process and required courts to promote the “peace and co-existence of the family” during settlement proceedings — often at the expense of survivor safety and well-being. However, if enacted in its current form, the Draft Act would continue to provide for structured alternative dispute resolution as an available pathway in domestic violence cases.

Section 24 of the Draft Act replaces the terminology of “compromise” and “conciliator” under the 2007 Act with the concept of “producing a plan to address and prevent domestic violence,” to be facilitated by a “manager in domestic violence cases,” or, where the court deems appropriate or upon request by a party and court approval under Section 37. It serves as a precondition for the withdrawal of a complaint in compoundable offences under the Draft Act.

The stated objective of this provision is to protect the survivor’s rights, well-being, and safety, and to prevent revictimization. However, Section 28 explicitly includes among its objectives the “protection of family unity or the marital status of spouses or persons voluntarily living together as husband and wife”, as well as “the protection and assistance of the family, particularly while the family bears responsibility for the care and education of minor members, with primary consideration given to the welfare and future of the minors.”

The inclusion of these latter objectives risks reintroducing a reconciliation-oriented approach that prioritizes family preservation over survivor autonomy and safety.

Moreover, the Draft Act lacks sufficient safeguards to ensure that a survivor’s consent to participate in this process is genuinely voluntary, fully informed, and free from coercion. Apart from the provisions of Section 24 that the process may commence where both parties express “willingness” to participate, the Draft Act does not establish clear procedural guarantees to assess the presence of coercion, power imbalance, or ongoing risk.

In its 2014 and 2024 concluding observations on Thailand’s initial and second reports, the CAT Committee expressed concern that the 2007 Act prioritized settlement over survivor safety and well-being.²⁰ Similarly, in its 2025 concluding observations on Thailand’s eighth periodic report, the CEDAW Committee raised concerns regarding

¹⁹ CEDAW General Recommendation No. 35, para 32 (b).

²⁰ 2014 CAT Concluding Observations on Thailand, para. 16(b); 2024 CAT Concluding Observations on Thailand, paras. 36-37.

Thailand's continued reliance on family reconciliation procedures in cases of domestic violence.²¹

Recommendations

- Amend Sections 24 and 37 to ensure that any resort to alternative dispute resolution — including the production of “plans to address and prevent domestic violence” — is not mandatory and is explicitly limited to exceptional cases. Such processes should in no case prevent prosecution in serious domestic violence cases from proceeding.
- Amend Sections 24 to explicitly provide that, where alternative dispute resolution is permitted, it must:
 - be initiated by, and proceed only with, the free and informed consent of the survivor, following a thorough assessment by a specialized and trained team to ensure that there are no ongoing risks and no coercion; and
 - be conducted by independent professionals specially trained to understand and appropriately intervene in cases of domestic violence, including in situations involving coercive control or power imbalance.
- Amend Section 28 of the Draft Act to ensure that the “protection of family unity” or the protection of “marital status” is never an objective in the development of “plans to address and prevent domestic violence,” as such plans constitute a key factor influencing whether prosecution should proceed.

7. Penalties

Thailand has an international legal obligation to impose “appropriate penal sanctions” that are “commensurate with the gravity of the offence” on perpetrators of domestic and other forms of violence.²² However, similarly to the 2007 Act, the Draft Act prescribes disproportionately lenient penalties compared to those under general criminal law.

Pursuant to Section 42 of the Draft Act, any person who commits an act considered to constitute domestic violence is liable to imprisonment for up to six months, a fine not exceeding 10,000 baht (approximately 320 USD), or both. In contrast, under Section 295 of the Criminal Code, causing bodily or mental harm that does not amount to grievous bodily harm carries a penalty of imprisonment for up to two years or a fine not exceeding 40,000 baht (approximately 1,180 USD), or both. This disparity reflects a legal framework that treats domestic violence more leniently than comparable acts of violence committed outside the domestic sphere and signal that domestic violence is less serious than similar conduct in other contexts.

The penalty prescribed under Section 43 of the Draft Act criminalizing the dissemination to the public of images, stories, or information that may reveal the identity of a person subjected to domestic violence or a perpetrator of domestic violence, except where legally justified is in fact higher than the penalty for domestic violence itself. Section 43 provides for imprisonment of up to six months or a fine not exceeding 60,000 baht (approximately 1,928 USD), or both. This internal dissonance further underscores the disproportionate treatment of domestic violence offences under the Draft Act.

²¹ CEDAW Committee, ‘Concluding observations on the eighth periodic report of Thailand,’ UN Doc. CEDAW/C/THA/CO/8, 10 July 2025, para. 25(c) (‘2025 CEDAW Concluding Observations on Thailand’).

²² CEDAW General Recommendation No. 28, para 34; CEDAW General Recommendation No. 35, paras 23 and 29(a); and CAT General Comment No. 2, para. 18.

Recommendation

- Amend Section 42 so to provide that penalties for domestic violence are appropriate and commensurate with the gravity of the offence, and are no lower than those applicable to comparable offences under general criminal law, including the Criminal Code.

We remain at your disposal for any further information or clarifications you may require.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Ian D. Seiderman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ian Seiderman
Senior Legal and Policy Director
International Commission of Jurists (ICJ)