

Alternative Report to CEDAW

**Submitted by
the Women's Network for the Advancement and Peace,
Thailand**

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Content

- I. Background and introduction
- II. The Areas of Concern
 - A. National Machinery for the Advancement of Women and overall Implementation;
 - B) Violence against women
 - a) Domestic violence*
 - b) Rape and sexual harassment (Sexual violence and abuse)*
 - c) Gaps in access to justice*
 - d) Gaps in social services and support*
 - C) Trafficking in women
 - a) Trafficking prevention*
 - b) Protection and redress under legal and judicial process*
 - c) Reparation, recovery and social reintegration processes*
 - d) Economic support to victims of trafficking*
 - e) Weak implementation and assessment of measures and plans*
 - D) Women in conflict situation
 - E) Women's economic empowerment
 - F) Women in special circumstances.
 - a) Women with disabilities*
 - b) Women living with HIV/AIDS*
 - c) Foreign migrant women and girls*
- III. List of participating organisations

I. Background and introduction

1. Thailand has become State Party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) since September 1985 with seven reservations on the substantial articles. In the course of over three decades the Thai government has gradually withdrawn these reservations and in 2012 the reservation on article 12 relating to family matters has been removed. Currently, there is only one reservation on article 29 on the arbitration of International Court of Justice. Thereby Thailand demonstrated the political will to fulfill binding obligations to CEDAW.
2. Nevertheless we have grave concern on the commitment of Thailand to achieve the substantive equality in spite of modification on rules and regulations relating to women's opportunity in public and private domain. Evidently, the commitment has been focused mainly on the formal equality rather than the equality of access and result. In connection to the submission of national periodic report to CEDAW Committee, the non-governmental women's organisations have joined hand to prepare the alternative report highlighting the areas Thai government should put due diligence to attain substantive gender equality and prevent discrimination in all areas of women's lives.
3. The Network for the Advancement of Women and Peace has coordinated the preparation of the alternative report by having various consultation meetings with women in all sectors including those of marginalized group to identify the issues and areas of concern. The CEDAW Committee's Concluding Observations from the combined fourth and fifth periodic report were shared and discussed to assess the extent that Thai government has implemented and achieved and the gaps remain as well as identifying emerging issues that need to be addressed.
4. The alternative report has addressed key areas of concern that includes a) National Machinery for the Advancement of Women and overall Implementation; b) violence against women; c) trafficking in women; d) women in conflict situation; e) women's economic empowerment; and f) women in special circumstances.

II. The areas of concern

A. National Machinery for the Advancement of Women and overall Implementation

5. Thailand has not taken into serious consideration the issues of concern raised by the CEDAW Committee to Thailand during the 34th session in 2006 that relocation of the Office of National Commission of Women's Affairs (NCWA) after the bureaucratic reform in 2002 from the Office of the Prime Minister to the Ministry of Social Development and Human Security may undermine the authority of the national machinery - upgraded to the departmental level namely the Office of Women's Affairs and Family Development (OWAFD) - to carry out its gender mainstreaming efforts and coordination across all sectors. So far, no in-depth evaluation on the efficiency of the national women's machinery has been conducted, particularly in terms of role, performance, and its negotiation power with other ministries. The issues of capacity and performance of the national machinery, Chief Gender Equality Officers and focal points at ministerial and departmental levels have been seriously discussed among CSOs for over a decade.
6. Since the bureaucratic reform in 2002, there has been no government agency responsible for the advancement of women at the sub-national level. This causes no linkage in translating the national policy on gender equality and women's empowerment into the sub-national implementation. In 2015, subsequent relocation of the operation works in relation to women in prostitution and trafficked women such as shelters and vocational training centers in different regions from the Social Development Department to the national machinery has not just increased burden of the national machinery in terms of budget and personnel but also undermine its policy advocacy and catalytic roles in spearheading to promote gender equality and women's empowerment with relevant government agencies.
7. The Fund for Women's Roles Development (FWRD), totalling USD 207 million was established in 2012 at the Secretariat Office of the Prime Minister with the aim of providing small grants for capacity development, protection of women's rights and provision of remedies; and low interest rate loans to women's groups all over the country. The Relocation of the Fund in 2015 to the Community Development Department (CDD) of the Ministry of Interior as a result of its unfavourable performance of the Fund from 2012-2014 in terms of achievements made against the objectives, and fund approving and spending, scrutinized by the Office of Auditor General of Thailand

does not guarantee more effective performance of the fund. CDD does not have mandate to promote gender equality and women's empowerment but only has expertise in local communities, grassroots economy, and governance of the community fund which its mandates are far more behind human rights, gender equality and women's empowerment.

8. Unfortunately, not a single concrete action or a pilot project on gender mainstreaming has been carried out by the national machinery and other government agencies. The Women's Development Plan (WDP) has no linkage with the National Economic and Social Development Plan (NESDP) resulted in less attention and commitment towards WDF among agencies concerned. The implementation of the plans are not effectively monitored and never evaluated. However, with a provision of the 2017 Constitution that requires State to consider gender difference in budget allocation and Thailand's strong commitment to achieving the Sustainable Development Goals (SDGs) by 2030 in an integrated manner with the NESDP, this provide more opportunities which never have had before for the 12th WDP (2017-2021) to have SDG implementation as a link to the 12th NESDP (2017-2021).
9. The National Commission on Policy and Strategy for the Improvement (Advancement) of Status of Women was set up according to a Prime Minister Office in 2008. In 2015 the Gender Equality Act was enacted and includes the mandatory National Committee on the Promotion on Gender Equality as well as other two committees overseeing complaints and fund. There is a need to consider the role and responsibility of the two national committees, to identify the overlapping mandates and find best solution for the promotion of gender equality.
10. The members of the National Legislative Assembly (NLA) appointed by National Council for Peace and Order (NCPO) are not distributive and inclusive as they are mainly from those who have military ties and have inadequate knowledge and understanding on key UN Human Rights treaties, particularly CEDAW, its principles, national obligation, gender equality and women's empowerment. In the process of law enactment or amendment, NLA's analysis base on their own limited and conventional understanding. Profound experience of women CSOs are not sufficiently taken into account. CSOs have limited opportunities and spaces to communicate with NLA during the process. Such laws enacted under the NLA include Gender Equality Act (2015), the legislation on Surrogacy (2015) and the Prevention of Teenage pregnancy Act (2016).

11. Recommendations

- The government urgently enacts a law to return to the Prime Minister's Office the national machinery with its highest appropriate status to ensure relevant government agencies have strong ownership in WDP, fully carry out gender mainstreaming efforts and regularly monitor and evaluate the plan.
- Identify the overlapping roles and responsibilities of the 2008 National Commission on the Policy and Strategy for the Improvement (Advancement) of Status of Women and the 2015 National on the Promotion on Gender Equality and find best solution for the effective national committee for the promotion of gender equality.
- Enact legislation to relocate the Fund for Women's Roles Development under the national machinery to equip women's organisations at all levels with capacity to protect women's human rights, promote gender equality and women's empowerment. This would be a direct and effective linkage between the national machinery and grassroots women's organizations nationwide. The operating works relocated earlier to the national machinery remains with the appropriate operating agency in the Ministry of Social Development and Human Security.
- The government urgently, sporadically, and continually conduct systematic capacity development programmes to ensure new and existing actors, including the parliament, national women's machinery, other relevant government agencies, the judiciary, public health and law enforcement agencies have consistent and adequate knowledge, understanding and skills to promote gender equality and women's empowerment, and effectively enforce the Gender Equality Act, relevant laws and ensure integration of gender perspectives in all SDGs implementations.

B. Violence Against Women

12. Despite an increased awareness and actions among relevant State agencies to address the situation of violence against women over the past years, the problem remains prevalent. The number of women victims of gender based violence who received medical treatment from the 750 OSCC (One Stop Crisis Centre) of the Ministry of Health is 12,554 in 2010. It reflects that there are 34 women physically abused on daily basis. Forty six percent of the affected women are at the age of 25-45 years, thirty per cent are at the age of 18 – 25 years. In the period of three years, the number of women victims of violence has increased considerably to 31,886 or 87 cases by day as reported in 2013. Certainly higher as this statistic confines only to those who receive medical care at OSCC. There are also serious concerns with regards to ensuring appropriate and effective means of protection and redress to women and girls who are victims of violence. Specifically, there are gaps in the following areas:

a) Domestic violence

13. In its previous Concluding Comment, the Committee expressed concerns about the inadequacy of the punishment for perpetrators of domestic violence set out in the “draft Act on the Prevention and Resolution of Domestic Violence ” as well as its focus on reconciliation and family unity to the detriment of the right of women to live free from violence. In effect, Thailand has enacted the Domestic Violence Victims Protection Act (DVVPA) in November 2007. The law is gender neutral, and states clearly that it aims to maintain good relationship in the family, and the best interest of the child is the key concern for any proceeding of domestic violence, especially in the case of divorce.
14. Moreover, DVVPA covers only two forms of domestic violence, which are physical and mental; the sexual violence is excluded. The exclusion of sexual violence in the DVVPA makes it difficult for any person who suffers from sexual violence in the family including marital rape to utilize the complaint procedure stipulated in this Act. There is ambiguity in the term **unethical dominance**, and there is no explanation of this. Thereby it depends on the interpretation of judicial officers to what extent the unlawful act stemming from “unethical dominance” constitutes domestic violence.
15. Another issue of concern regarding the settlement is that it does not require the final view of the aggrieved party. This might be a legal loophole that infringes on gender justice and perpetuates the traditional role of women who should sacrifice for the benefit of the family. Although the law does not deprive the right of aggrieved person to pursue criminal proceeding, it does not provide any measures/provisions to support the person, especially women, to pursue the criminal court case, particularly if she wants to end the family relationship. Divorce, according to the DVVPA, should be the last resort to end the violent relationship.
16. After the enforcement of DVVPA, the number of women and girls resorting to legal protection under this Act is very low. In 2015, OSCC reported 23,977 cases of women and children victims of domestic violence but only 969 cases have been assisted according to the mandatory report by the Ministry of Social Development and Human Security. The key factors of low number of case report are the traditional and cultural value as well as social norms dictating women to sacrifice for family unity; the economic dependency of women on male breadwinner; and the absence of socio-economic and legal support system to women. Since the Act does not contain provision to establish remedial fund for victims of domestic violence, the decision of the women to escape violence and stand on their own becomes a challenging one. The other crucial factor is the mindset of competent officers who overlook the power relationship in the family still reinforce traditional role of women in solving domestic violence.

17. Women who have been victims of domestic violence remain vulnerable to repeated acts of violence by the same perpetrator once they have gone through family reconciliation process. In fact, there are a number of cases of women who eventually committed crime against their husbands/partners out of self-defense or as the last resort due to the suffering from domestic violence they have endured. The women who commit violent act against their husbands are prosecuted under criminal law and subjected to severe punishment. The history of family violence is not specifically put in the record and used as evidence to defend the accused women. The MSDHS has yet to adopt policy and guidelines dealing with this type of women including provision for economic and legal support to women and their children. Currently there is a very few women's organisations providing social and legal support to women facing criminal charge that are growing in numbers. The pro bono lawyers do not have experiences and resulting to adverse effect on women.
18. In spite of considerable legal loopholes in enforcing the DVVPA to providing effective protection and assistance to aggrieved women and deter violence in the family, the MSDHS is drafting a new legislation aiming to strengthen the family institution. The proposed draft bill entitled "Protection of Family Members' Security" has provisions only in one section on domestic violence similar to the 2007 DV Act and includes battered wife syndrome as a case should be considered in the court deliberation. The key concern on this draft bill is the confusion between the protection of family members and promotion family institution. The focus is on promoting family institution by enforcing family network at all levels. In 2017, the draft bill was approved by the Cabinet and under the final scrutiny of the Council of State albeit the constructive comments from women's and children's rights network, legal experts, human rights commissioner and academia. The main concern is that the draft bill does not put emphasis on the protection of human rights and security of women who are abused but rather on promoting the family institution by means of having authorities to intervene family life cycle.

b) Rape and sexual harassment (Sexual violence and abuse)

19. The civil society welcomes the amendments of the Penal Code section 276 with regard to definition of rape to recognize marital rape and other incidences of coerced sexual acts against anyone as a crime. However, there remain gaps in the law and legal enforcement. The responsible agencies need to establish gender sensitive guideline of procedure to record the case on marital rape and relevant evidence so that aggrieved person especially women can complaint and access to remedies. Since its amendment in 2007 there is no report on the enforcement of the Penal Code Section 276 to redress marital rape case.

20. With regard to sexual harassment, there is currently a lack of a precise definition in relevant Thai legal code. The Thai Penal Code section 278 uses the term indecency (indecent assault) which makes it difficult to produce evidence. Despite punishment for violation being set at the maximum of 10 year imprisonment term, most convicts have received only a lenient punishment and often under probation. Hence, there is a need to define distinctly the term and form of sexual harassment in the Penal Code.
21. Although section 16 of the Labour Protection Act, amended in 2007 prohibits employers, heads of section, controllers and inspectors to commit any form of indecency to their employee/subordinate, this provision has been of little use due to the fact that employees who have been violated would be more concerned about their job security than pressing charge against employers whose punishment for violation remains low with a maximum of THB 20,000 (approx USD 600) fine.
22. Furthermore, sexual violations committed by military personnel are not dealt with through regular judicial channel but through the military established channels. Under the military legal regime, the aggrieved persons/women cannot appoint their own lawyer to take part in the trial process. There is, so far, no record on the result of sexual violation cases deliberating by the military established channel and the discrepancy of judgment from the civic judicial system.

c) Gaps in access to justice

23. Effective legal protection to victims of sexual violations and prosecution of perpetrators remains an important concern. Despite the fact that there are over 600 One-Stop Crisis Centers located in public hospitals nationwide to assist with cases of violence against women, there are no comprehensive services available in all of these centers. In a few of these centers, there are services for children to give their testimonies with the presence of a team of multi-disciplinary professionals. In most cases, women who are victims of violence and receive immediate care still need to make report to the police in order to access legal remedy.
24. Statistics from the National Police Bureau indicated that in 2014 and 2015, the police were only able to arrest about 63% and 77% of perpetrators of all reported rape cases. In cases where the perpetrators have been convicted it is found that many of the cases have been withdrawn due to the inability of the plaintiff to be at the court. According to NGO case workers, women who have been victims of sexual violence are often traumatized by the incident. They also lack confidence in receiving appropriate treatment during the judicial process and they, therefore, require additional assistance and support from lawyer. While an international agency has supported an initiative to make the judicial process in Thailand more gender-sensitive and victims-friendly especially in cases

involving sexual violation, the Thai government has not demonstrated a sustainable commitment to improve its judicial proceeding so that victims of sexual violence do not become re-victimized in the trial process.

d). Gaps in social services and support

25. The Thai government has not paid adequate attention to provision of social services and support to women and children who are victims of sexual violations. Currently, there are government shelters which can temporary house needy women and children and hospitals to care for mentally-ill patients. For women who have been victims of sexual violence and suffer emotionally, there is a lack of professionals to provide psychological supports to the victims as well as insufficient and inappropriate shelters for women victims of violence who require psychological and emotional care.

26. Recommendations:

- Amend the DVVPA for comprehensive definitions with inclusion of sexual violence in line with Article 276 of Criminal code, and provision on social and legal services for aggrieved women. DVVPA must remain stand alone legislation not colliding with the newly draft bill focusing on strengthening family institution.
- Determine responsible agency for inter-agency coordination to provide comprehensive psycho-social and legal redress of gender based violence cases.
- Provide monetary support to CSOs and gender sensitive lawyers defending battered women on criminal charge of homicide.
- Systematically document cases of domestic violence with classification on types of violence, perpetrators, victims, complaint and socio-economic support and legal redress.
- Publicise and sensitise domestic violence in the context of human rights violation, unequal gender power relationship to all sectors.

C. Trafficking in women

27. Despite efforts by the governments over the past years to combat trafficking in persons, especially in women and children, including the adoption of the Prevention and Suppression of Human Trafficking Act in 2008, there remain a number of gaps in the following areas.

a). Trafficking prevention

28. Although government agencies have stepped up their efforts to raise awareness about trafficking through different channels including through television campaigns, these efforts have not been most effective in reaching target groups who are vulnerable populations in remote areas and those from different ethnic communities. Furthermore, the campaign process which is normally a one-time event lacked adequate participation from local government authorities, civil society and non-governmental organizations as well as the trafficked persons. Community leaders still do not have sufficient understanding about prevention of trafficking and how to support trafficked victims when needed.
29. The important root cause of trafficking is the undesirable socio-economic position of women that depriving them an equal access to decent work and making migration for various purposes as option for taking care of family. Migrant women with inadequate information and limited employment opportunity thereby become victims of regional and global human trafficking. However the prevention campaign and activities do not diligently tackling the root cause nor provide adequate non-stereotype economic options for women. The potential migrants and trafficked returnees do not receive enough economic advice and support to lead their lives free from being trafficked.
30. The Ministry of Labour, in charge of regulating overseas job placement agencies, does not monitor effectively the recruitment process and types of work migrants end up in destination countries. The agencies that license is revoked continue to recruiting and sending migrants for labour and sexual exploitation overseas. Moreover the official pre-departure training does not provide migrants appropriate basic information on nature of employment, location, labour laws, rules and regulations as well as their basic rights and agencies they can seek assistance.

b). Protection and redress under legal and judicial process

31. After the Prevention and Suppression of Human Trafficking Act has come into force in 2008, there are, according to the National Police Bureau's reports, investigation of 317 cases in 2015 and 333 cases in 2016 whereas in 2008 and 2009 there were 139 prosecuted cases involving human trafficking. In recent years number of identified trafficked persons is decreasing this might derive from various factors such as interview method, communication gap, incompetent officers and crucial element of consent in migration process. In providing services and monitoring trafficking cases, a number of gaps have been identified by NGOs.

- There have been inadequate witness protection under the Prevention and Suppression of Human Trafficking Act and Witness Protection Act leaving the majority of victims remain under fear of reprisal from traffickers.
- Victims of trafficking are not entitled to compensation and restitution under the Compensation Act due to the definition of the ‘victims’ defined in Section 3 of the Act to cover only those who have been gravely damaged (physically and mentally) by other without their own involvement . Thus, in trafficking case where the victims had agreed to cross the borders illegally with agents, they are not entitled to compensation under a criminal case.
- Despite the provision in the law for victim assistance there is insufficient support for the costs of transportation, food and lodging to enable victims of trafficking to be witness in trafficking case during the trial process, this remains inadequate consider the long duration of the trial. Furthermore, there are lack of competent lawyers and officers to monitor the cases.
- Without due diligence support of NGOs and peer group, the trafficked women and girls can not pursue effectively criminal and civil complaint both in cases of Thai and non-Thai trafficking.
- In cases where the offenders have been released on bail and have escaped, concerned government agencies do not provide effective monitoring and seeking cross-border cooperation with authority in country where offenders take refuge to ensure that offenders can be brought to trial, serve sentence and pay victims for compensation as ruled out by the court.

c). Reparation, recovery and social reintegration processes

32. The official service providers do not adequately use victim-centered with right based approach in reparation, recovery and reintegration support to trafficked women. The process of reintegration carried out by government agencies has not been sensitive to the privacy of victims of trafficking. When the situation of the trafficked victims becomes known to the community, they themselves and their families are negatively affected.
33. There is a lack of appropriate shelter and services for victims of trafficking with different needs. Currently, government-run shelters for victims of trafficking have to provide services for Thai and non-Thai women who face different problems. There is also insufficient number of staff in the shelters to provide support to the women victims. It is also found that some staff members are insensitive to the rights of victims which have caused the latter to refuse to be put in these shelters.

d). Economic support to victims of trafficking

34. The Prevention and Suppression of Human Trafficking Act mandated an establishment of trafficking fund that includes the prevention and remedial fund for victims of trafficking. This Fund provides financial support to victims of trafficking to restart their life in the amount of THB 15,000 (approx. USD 500) per person. However, in practice this amount of funding is inadequate to support victims of trafficking to rebuild their life. Moreover, the consideration process to release funding by the Fund Management Committee takes average of 7-8 months which has made it difficult for victims of trafficking to materialize their immediate economic plans. Thus, a number of women seek to re-migrate and they are vulnerable to be re-trafficked. Further barrier for trafficked returnees to assess this remedial fund is the regulation requiring them to report their case to the police, thereby many returnees who do not want to press charge against their traffickers for fear of reprisal are not entitled to apply for this fund.
35. There is still a disproportional distribution of anti-trafficking fund, according to the Fund Management report in 2013 the total amount of about THB 153 million (approx. USD 4.5 million) were released to support altogether seven programmes aiming at prevention human trafficking, strengthening investigation and prosecution trafficking cases, developing national plan and data system, building capacity of anti-trafficking network, and victim remedial support. Eighty eight percentage of the total fund went to the prevention and other activities and only twelve percent were allocated to supporting trafficked victims.

e). Weak implementation and assessment of measures and plans

36. There are several gaps with regards to the composition, coordination and assessment of agencies concerned with implementing measures and plan to prevent and suppress human trafficking. Firstly, there is only limited number of NGOs sitting in the Committee for the Prevention and Suppression of Human Trafficking under the Trafficking Act while NGO experience in this field can be very beneficial to the work of the Committee. Secondly, there is a lack of coordination between the Committee overseeing undocumented aliens and the Committee on human trafficking. Thirdly, there is a lack of proper and systematic assessment on the work of agencies concern with implementing the Plan for the Prevention and Suppression of Human Trafficking.
37. **Recommendations:**
- Review the regulations on the anti- trafficking fund and remove the condition requiring trafficked persons report their case to police before applying for social and economic support.

- Consider the proportionate distribution of fund on prevention and assistance including allocation of fund to CSOs providing social and legal assistance to trafficked women.
- Establish due process in the criminal justice system on handling trafficking cases.
- Enforce international collaboration on extradition fugitive convicted traffickers to serve sentence and compensate their victims.
- Document legal cases and initiate comparative study on discrepancy in trial period, court judgment on trafficking cases to develop legal guidelines on deliberation trafficking cases with due process.
- Provide adequate support to non-Thai trafficked persons during the court trial and allow them to remunerated work.
- Monitor the job placement agencies and revise pre-departure training for oversea migrants.

D. Women in Conflict Situation

38. Conflicts in the area has historical root dating back to the last century. In early 2004, incidence of violence erupted and has since escalated, affecting increasing number of people, the majority of whom were ordinary citizens including women and children. In addition, there are 8,512 persons who have become disabled by the violence; 2,295 women have become widowed and 5,111 children have become orphans.¹ The majority of women living in these three provinces as well as those in four districts of neighboring Songkla province follow Islamic rules and practices and many of them are vulnerable to intersecting forms of violence against women and discrimination as a result of widespread violent conflict and inappropriate state responses as well as their own religious and cultural context.
39. Since the eruption of conflict in 2004, the three southernmost provinces have been under Martial Law and the Decree on Public Administration in Emergency Situations (2005). These law and decree have directly and indirectly affect the lives of people living in the areas including women and children. Local women's organisations/groups that growing in numbers since the conflict have provided social and legal support to women and children victims of gender based violence found that the women themselves fear to talk about the problem or to seek help due to their religious and cultural context as well as the absence of responsive and gender sensitive legal and justice system in dealing with cases of sexual violence, especially when the perpetrators are state's personnel.

¹ Issara News 8.Sept. 2011

40. There have been a number of cases of enforced disappearance in the southern provinces of Thailand due to conflict situation. To date, not all of the cases have been compensated. This is partly due to the absence of law relating to disappearances of people in Thailand. When disappearances involved state or state personnel, the lack of evidence has made it impossible for members of the disappeared to access to justice or gain compensations. Furthermore, there are some difficulties concerning the interpretation of Islamic law with regards to a number of rights and responsibilities on the part of the wife such as: the right and responsibility of the wife in handling assets and debts of the husband; the right of the wife as the head of the household, guardian right of the children, right to work and right to remarry. Such lack of clarity has also contributed to the difficulty faced by Muslim-Malayu speaking women in the southern provinces of Thailand to carry on their life in case their husband has become a disappeared person.
41. Since 1946, the Thai state has allowed for the use of Islamic law in four southern provinces of Thailand namely Pattani, Naratiwas, Yala and Satun resulting in a different practice in the family sphere than in other parts of the country. There are a number of concerns over right and protection of Muslim women in the southern province of Thailand due to the specific culture and religion beliefs and practices on for instance domestic violence and early marriage.
42. The National Commission on Policy and Strategy for the Improvement of Status of Women has endorsed the Plan on Measures and Actions on Women's Participation in Promoting Peace and Security in November 2016. The Plan took into consideration the SC Resolution 1325, aims at protecting women from violence, promoting their access to justice and increasing their participation in peace and security process. The concern is how to implement this Plan effectively with meaningful participation of local authorities and CSOs especially local women's organisations and their non-traditional role at policy decision making.

43. Recommendations:

- Systematic document and publicise report on cases of gender based violence against women and girl child in the southern provinces including types of violence, perpetrators, number of cases prosecuted.
- Allocate adequate national fund for implementing, monitoring and evaluating the implementation of the 2016 Plan.
- Develop gender sensitive and right based guideline for local authorities, religious leaders in solving cases on domestic and sexual violence.
- Establish women's desk with competent personnel to providing counseling to women in the office of Islam Committee at all levels.

E. Women's Economic Empowerment

44. Women's economic contribution is significant to the Thai economy as women labor force is as high as that of men (46 per cent). Around 80 per cent of them is in the informal sector, including unpaid family workers. Despite high percentage of women engaging in economic activities/employment, their labor and rights are not fully recognized and well protected by laws and policies. Various forms of gender discrimination at workplace continue to occur such as selection criteria in recruitment, promotion, lower pay and inadequate protection on sexual harassment.
45. During the economic crisis in 2007, the increasing number of women workers in the formal sector has been seriously affected. At least 215,700 of them in export industries were laid off such as electrical parts production and garment. Many of these workers ended up in the informal sector with lower pay. The government does not have effective measure to ensure responsibilities of these companies over these workers. The Government has initiated the policy on daycare services in the work place for decades, but fails to encourage most of the business operators to provide affordable daycare service in their business establishments.
46. Retirement age in many factories still discriminates against women, 55 years for women and 60 years for men. It is quite a big challenge for many of retired women who have to find a new job at that age to earn their living in addition to the pension which is not enough for their families.
47. Statistics in 2016 pointed out that around 55 percent of the total labor force is in the informal sector, mainly characterized by piece-rate payment. Women constitute up to 45 percent (9.6 million.) in informal sector and outnumber men in home working (77 per cent) with average age of 41 and 82 per cent of them had primary education or lower. The average monthly income of women home workers is about USD 73 whereas that of men is around USD 176. They are in risk of financial insecurity in the older age due to not enough savings and no pensions.
48. Women in informal sector comparatively gain less access to the labor welfare than those working in formal sector and do not get protection from the labor law. There are no minimum wage guarantee, no social security, lack of job security and no protection for occupational health for women in informal sector. Furthermore, they also have high risk of hazard from long working hour and some chemical from raw materials, and hurt or accident. Unfortunately, there is no sex-disaggregated data on such situation. Women in informal sector are at risk of being pushed into sex industry, drugs trafficking and gestational surrogacy.

49. As for maternity benefits, though women in informal sector can access to medical services in case of delivery under the Universal Health Care Scheme, they are not entitled to get maternity leave and income compensation during the time of their absent from work to take care of their newborns. There is inadequate affordable public nursery and childcare service.

50. Recommendations:

- Integration of gender concern into the labour inspection system to effectively enforce Labour Protection Act and Gender Equality Act
- Establish the living wage and extend the social security benefit for labour in the informal sector and home workers.
- Provide opportunity for women in informal sector and home workers to get adequate access to non-traditional skill trainings and resources.

F. Women in special circumstances

a). Women with disabilities

51. According to statistics, there are approximately 1.77 million persons with disabilities in Thailand in 2017 and about forty-seven percentage (835,673) are women. Thailand promulgated national legislation to promote and develop quality of life of people with disabilities and has endorsed the Fifth National Plan for the Development Quality of Life of People with Disabilities (2017-2021) with a goal to enable people with disabilities to exercise their rights, live independently in an inclusive society. The second area of the Fifth Plan has a specific focus on empowerment and development potentials of women with disabilities enabling them to access equal opportunity for participating in mainstream social development.
52. In spite of having national machinery, plan and resources to improving the lives of people with disabilities, there are still some forms of discrimination and violation in their daily life, women with disabilities experience a greater level of discrimination and violation especially in the following areas.
53. Education & Job opportunity: Despite Education for Persons with Disabilities Act of 2008 ensuring access to education for all persons with disabilities, the majority of persons with disabilities especially those living in the rural area remain out of education. This is due mostly to limitation in transportation as well as a lack of appropriate facilities and services in the schools. Girl children and women with disabilities are always put in a special track, usually one with lower quality in training centers. Hence, they have a lower expectation on their learning and self development and have less opportunity to get access to decent work. Statistics indicated that in 2015 about 41% of people with

disabilities engaged in some kinds of work – mostly in agricultural sector. More recently, Ministry of Labour and the Thai Chamber of Commerce have collaborated to increase employment opportunity for persons with disabilities by using a quota system. However, this has generated only about 16,032 of job positions for persons with disabilities. Since about half of the work establishments are located in Bangkok, this limits job opportunities for the majority of people with disabilities especially women.

54. Cultural and social participation: The women with disabilities are underrepresented in cultural and social activities. Number of women represented in the national council of people with disabilities is still limited thereby many areas affecting the quality of life of women with disabilities such as gender-based violence, reproductive health/rights are overlooked and not included in the national plan of action. There is a need to set up temporary special measures as criteria enabling women with disabilities to represent in the national machinery/council.
55. Violence and abuse: Women and girls with disabilities are in greater risk to be victims of sexual violations than women without disabilities and remain suffer from various types of violence with limited access to legal redress. There are no specific office to provide psycho-social and legal support to enabling them making complaint against their perpetrators who are usually members of the family, relatives and those in the neighborhood. Negative social norms have resulted in discrimination practices with regards to access to protection and legal redress. Women with disabilities are directly and indirectly forced not to press charge against perpetrators: the police are not willing to file the case and family members and relatives ignore incidences of violation.
56. Health care and reproductive health right: Women and girls with disabilities lack access to appropriate health care services due to a lack of awareness by their families. With regards to sexual and reproductive health, women with disabilities lack access to appropriate sex education and they are unable to take appropriate care of themselves. Women with mental and learning disabilities are particularly discriminated against. They are forced to be sterilized either by guardian or health worker as prevention from getting unwanted pregnancy.

b). Women living with HIV/AIDS

57. There is an estimated of 179,590 women living with HIV/AIDS in Thailand in 2015. Among these, 85% are in reproductive age. Since 2000, women accounted for the majority of new infected cases (about 49%) while men accounted for 37% of new infected case, and mother to child transmission accounted for the remaining 14% (source). Among the 11,753 new infected cases of women reported in 2009, 30% were reportedly got infection from their husbands/partners. Since 2015 newly found cases of

women is decreasing to 1:1.5 . Women living with HIV/AIDS face multiple forms of discriminations. This report highlights two areas of discrimination faced by women living with HIV/AIDS in Thailand.

58. Access to information and services relating to sexual and reproductive health: It is found that over past decade the government policy aiming at reducing new infection rate focusing on mother to children transmission cases has discriminated against pregnant women living with HIV/AIDS in different ways. In spite of having a policy with regard to HIV/AIDS testing in pregnant women stating that “Voluntary HIV/AIDS testing in pregnant women must be done with appropriate pre-and post-test counseling. Test outcome must be kept confidential.” However, in practice it is reported that pregnant women are not properly consulted with or provide information about HIV/AIDS testing. As result most pregnant women consent to HIV/AIDS testing without knowing that they have a right to refuse being tested if they are not mentally prepared. If the result is positive, the women are often forced to tell the test outcome to their partners. Many women found themselves being shunned by their partners and families once they are known to be HIV positive.
59. NGO’s finding from in-depth interviews with women living with HIV/AIDS reveals that when women are tested HIV positive during pregnancy, 57% of pregnant women with HIV positive status decide to have abortion but medical personnel would encourage them to continue the term and provide them with ATZ to prevent mother to child HIV transmission. It has been reported that prior to the launch of the national campaign to reduce mother to child HIV transmission in 1999, pregnant women with HIV positive status in their first term were able to get abortion done by medical personnel if they so decided. However, with the launch of the said campaign most hospitals have stopped giving abortion services to pregnant women with HIV positive. Thus, these women have to seek abortion from illegal and unqualified service provider which can often lead to further complications.
60. In any cases, there is negative societal attitude toward women living with HIV/AIDS especially concerning their reproductive health conditions. Women living with HIV/AIDS face with many considerations when deciding about pregnancy, abortion and family planning. They lack options and support system, especially psychologically when they decide to either carry on or stop their pregnancy. In this regards, provision of accurate information on reproductive health care, HIV infection and pregnancy will enable women living with HIV/AIDS to take appropriate decision and take control over their own reproductive health needs.
61. Discrimination against women living with HIV/AIDS in the area of economic life: There are currently a number of women living with HIV/AIDS living in rural area and

working in agricultural sector. However, they are neither able to access to loan schemes nor participate in the welfare saving program run by the governmental operated Bank of Agriculture and Cooperatives. The aim of the welfare saving program, which works like a life insurance scheme, is to enable family members of the participants to benefit from the saving after the latter's death. However, women living with HIV/AIDS are unable to join this program because the program requires that participants be in good health, with proof of medical certificate from governmental hospital. The program also requires that participants do not have contagious or non-curable diseases.

62. In this respect, the Thai government fails to uphold its commitment to CEDAW with regard to article 13 which mandates States Parties “to take all appropriate measure to eliminate discrimination against women in economic and social life and to ensure in particular, (b) the right to bank loans, mortgages and other forms of financial credit.

c).Foreign migrant women and girls

63. There are about 3.5 – 4 Million documented and undocumented migrants including women and children living and working in Thailand. Through experiences of NGOs, many migrant women and girls have been subjected to different forms of violence and abuse in their work sites as well as in their communities and families especially those who are undocumented. Only a few migrant women and girls who are identified as trafficked victims get access to psycho-social and legal redress. Most migrant women and girl children especially the undocumented who are in exploitative conditions do not get access to labour protection, psycho-social and legal redress unless they contact civil society organisations for assistance.
64. The current foreign employment policy indirectly discriminated against women and girl migrants as it is conducted under the bilateral MOU signed by Thailand and sending countries. The types of work do not include care workers particularly domestic work thus they have to register under other type of employment and at risk of being exploited by employer and arrested by authority. In 2016, there are 42,566 workers who receive permission to work as domestic workers while in 2012 the National Statistics Office estimated that there were about 200,000 foreign migrant domestic workers. IOM estimated that 90 per cent of domestic workers in Thailand were foreign migrant workers from neighboring countries who were undocumented and did not have work permit. The women and girl migrants depend on agents who facilitate their move and job placement which sometime ends up in sexual service.
65. There is no standard guideline for the treatment of undocumented workers who are arrested. They are sent either to immigration detention centre for summary deportation or to juvenile corrective centres where they do not get the same treatment as other Thai

children. Juvenile migrants who have conflict with the laws are detained in the corrective centres without clear knowledge on the trial and duration they need to stay in Thailand. There is no systematic risk assessment of repatriation of underage migrants as well as the condition they are kept in the immigration and correction centres.

66. Foreign migrant women workers have limited access to reproductive right, especially right to pregnancy and maternity leave. If foreign migrant workers were found to be pregnant, they would be laid off and sent home. This forced foreign migrant women workers to opt to risky methods of unsafe abortion.
67. Although the legal protection and redress under Thai law for cases of sexual violation do not exclude migrant population, in practice migrant women and girls who are victims of violence do not report their case for fear of being arrested and deported, especially if they do not have legal documents. There are also problems with negative societal attitude toward migrants, language barriers and a lack of adequate support and services to enable migrant women victims of violence to gain access to appropriate protection and redress.

Recommendations:

- Set up quota system to provide equal opportunity and access of women with disabilities in the national committee and council of people with disabilities.
- Translate with meaningful participation of women with disabilities the specific area on women with disabilities in the Fifth National Plan into concrete action and allocate adequate resources for implementation.
- Review regulations on funding and loan and if necessary establish temporary special measures to ensure the equal access to resources of women in special circumstances for improving their quality of lives.
- Develop IEC materials on reproductive rights of women in special circumstances.
- Respect the right to informed decision of women living with HIV/AIDS whether to continue or terminate their pregnancy.
- Include care and domestic work in the bilateral MOU to provide opportunity for women and girl being registered as documented workers and entitled to labour protection.
- Develop standard operating procedures for relevant government agencies to work with foreign children migrants especially for girl children to ensure that children on the move are protected throughout the process in migration.
- Improve the condition of IDCs according to the international standard and ensure effective identification process of trafficked persons and vulnerable migrant women and children.

III List of participating organisations

- Foundation For Women
- Women’s Network for the Advancement and Peace
- Social Agenda Working Group (Social Watch, Thailand)
- Association of Women for Peace
- Northeast women’s Network on Land and Natural Resource
- Amnartcharoen Women’s Association
- Indigenous Women's Network of Thailand (IWNT)
- Thai Krieng Women’s Labour Network
- the Network of Thai Women Living with HIV
- The network of informal labour group
- Catholic Church in Bangkok {CCW - Catholic Commission for Women}
- Southern women’s Network
- Malay Muslim women’s group
- Network Organizations on Muslim Women
- Northern women’s network
- Women’ Labour Network
- We Move (Women’s network for national Reform)
- Social Watch Thailand (WOMEN REFORM)
- Justice for Peace Foundation (JPF)
- Women and Men Progressive Foundation (WMPF)
- Chumchonchai Foundation
- Chaiyaphum Women’s Network
- Gender equality promoting foundation
- Girl’s Guide Association of Thailand
- Isaan Development Foundation
- Isaan Women’s Network
- Kwan Chumchon Foundation
- Live Our Lives Group
- Map Foundation
- North region development Foundation
- Network of Land Reform of Northeast Region
- Protection on the Rights of Women and Children Foundation, Lampun
- Public Policy Studies Institute
- Rakthai Foundation
- Rural Development Foundation Thai Women’s Watch Association
- Chumchon Sattha Women’s Network

- Southern Women's Network
- the Women's Civic Network for Peace in the Southern Border Provinces (Civic Women)
- Thai Women's Watch
- Thai Positive Women's Network
- Thai Volunteers Service Foundation
- The Federation of Business and Professional Women Association of Thailand (BPW Thailand)
- Women Lawyers' Association of Thailand

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